SUPREME COURT, U.S.

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IN THE

SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1973

No. 73-1525

J. H. ROSE, Warden, Tennessee State Penitentiary,
Petitioner,

v.

JAMES EARL RAY,
Respondent.

PETITION FOR A WRIT OF CERTIORARI

To the United States Court of Appeals for the Sixth Circuit

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INDEX

Page

Prayer 1

Opinions Below 1

Jurisdiction 2

Questions Presented 2

Constitutional Provisions Involved 2

Statement of the Case 3

Reason for Granting the Writ 5

Conclusion 9

Appendices

A—Opinion of Court of Appeals for the Sixth Circuit Filed January 29, 1974 ..... A-1

B—Memorandum Opinion of the District Court for the Middle District of Tennessee, Nashville Division ..A-19

C—Guilty Plea, March 10, 1969 .....A-40

D—Deposition of James Earl Ray Taken November 22, 1969 in connection with Ray v. Foreman. (Direct Examination Only.) The Entire Deposition Is in the Record in the District Court Along With the Depositions of Other Principals in the Ray Case A-91

CITATIONS

Cases

Adams v. McCann, 317 U.S. 269 8

Boykin v. Alabama, 395 U.S. 238 5

Carnley v. Cochran, 369 U.S. 506 8

Dukes v. Warden, 406 U.S. 250 8

Fontaine v. United States, 411 U.S. 213 5

Garner v. Louisiana, 368 U.S. 157 5

McMann v. Richardson, 397 U.S. 759 7

Ray v. Foreman, 441 F.2d 1266 ..... 1, 4, 6, 8

Ray v. State, 451 S.W.2d 854 (Tenn. 1970) 3

Specht v. Patterson, 386 U.S. 605 5

Tollett v. Henderson, 411 U.S. 258 7

Statutes, Rules and Other Authorities

28 U.S.C. § 1254(1) 2

Rules:

Rule 11 Fed. R. Crim. P. 5

Constitution of the United States:

Fifth Amendment 2

Sixth Amendment 3

Fourteenth Amendment 3

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To the United States Court of Appeals for the Sixth Circuit

The petitioner respectfully prays that a writ of certiorari issue to review the judgment of the United States Court of Appeals for the Sixth Circuit in his case.

OPINIONS BELOW

The opinion of the Court of Appeals, — F.2d —, not yet reported, is reproduced as Appendix A. The memorandum opinion of the District Court, Appendix B, is not reported. Similar issues were litigated in *Ray v. Foreman*, 441 F.2d 1266 (6th Cir., 1972).

JURISDICTION

The judgment of the Court of Appeals was entered on January 29, 1974. This petition for certiorari is timely filed within ninety (90) days of that date. The jurisdiction of this Court rests upon 28 U.S.C. §1254(1).

QUESTIONS PRESENTED

(1) Whether one who pleads guilty is entitled to an evidentiary hearing on his claim that his guilty plea is involuntary when his petition contradicts statements made in open court and contains no allegations of physical or mental duress which could conceivably affect his responses at the time of the plea.

(2) Whether the record in this case conclusively shows that defendant's guilty plea was voluntary and intelligently made.

(3) Whether allegations of a conflict of interest on the part of his attorney entitle a criminal defendant to a hearing on the voluntariness of his guilty plea where the record conclusively shows that he knew of the alleged conflict, consented to it, and voluntarily performed many acts in furtherance of it.

CONSTITUTIONAL PROVISIONS INVOLVED

The Fifth Amendment to the Constitution of the United States provides in pertinent part:

> "No person . . . shall be compelled in any criminal case to be a witness against himself, nor be deprived of life, liberty, or property, without due process of law . . ."

The Sixth Amendment to the Constitution of the United States provides in pertinent part:

> "In all criminal prosecutions, the accused shall . . . have the assistance of counsel for his defense."

The Fourteenth Amendment to the Constitution of the United States provides in pertinent part:

> ". . . Nor shall any State deprive any person of life, liberty, or property without due process of law . . ."

STATEMENT OF THE CASE

James Earl Ray was indicted in Memphis on May 7, 1968, for the murder of Martin Luther King, Jr. After two continuances (at his own request) he pleaded guilty to first degree murder on March 10, 1969, presenting, in open court, a petition for waiver of a trial and request for acceptance of a plea of guilty. After careful questioning by the trial judge his plea was accepted. The transcript of the submission hearing is included as Appendix C.

After exhausting his state remedies,[1] Ray filed his application for the writ of habeas corpus in the United States District Court in Nashville, claiming that his first attorney, Arthur Hanes, Sr. of Birmingham,[2] and Houston attorney Percy Foreman had labored under a conflict of interest, that Foreman's advice to Ray to plead guilty was tainted by this alleged conflict and that he should therefore be allowed to withdraw his plea. In support of this claim, Ray attached over one hundred and fifty pages of

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[1] See *Ray v. State*, 451 S.W.2d 854 (Tenn. 1970).

[2] Ray fired Hanes on November 10, 1968, shortly after he hired Percy Foreman.

affidavits, contracts, magazine and newspaper articles and letters which tend to show that Hanes and Ray (and later Foreman) entered into a contractual relationship with Alabama author William Bradford Huie whereby Ray and his attorneys were to receive a portion of Huie's royalties on his writings about Ray and the Martin Luther King murder in return for information about the crime. According to Ray, this relationship created a conflict of interest between him and his attorneys since their profits would be greater if there was a guilty plea and no public trial. If there was a guilty plea, he reasons, the press would be cut off from information that only Huie was privy to, and therefore unable to publish competing works which would threaten to diminish Huie's (and therefore Hanes' and Foreman's) profit. Ray alleges that Foreman "pressured" him into pleading guilty because of this conflict of interest. Nowhere does he allege that he is innocent.[3]

Ray's petition was dismissed by United States District Judge L. Clure Morton in an opinion which held that the transcript of the state court guilty plea submission hearing conclusively showed that the plea was voluntarily and intelligently made. The Sixth Circuit reversed in an opinion by Judge William E. Miller,[4] joined by Chief Judge Harry Phillips. Judge Anthony J. Celebrezze dissented, stating that under the circumstances of this case, Ray was not entitled to an evidentiary hearing where the state record conclusively showed that the plea was voluntarily and intelligently entered.

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[3] A fuller statement of the allegations is found in Judge Miller's opinion. Appendix A.

[4] Judge Miller's opinion is based largely on the views expressed in his dissenting opinion in *Ray v. Foreman, supra.*

REASON FOR GRANTING THE WRIT

The Sixth Circuit decision presents important questions of Federal Law which have not been but should be settled by this court.

It is settled that a guilty plea, like any waiver of a constitutional right, must be voluntary and intelligently made. *Boykin v. Alabama*, 395 U.S. 238 (1969). The proper purpose of the submission hearing is to ensure that the plea is indeed voluntary but, if properly conducted, it also protects the plea from collateral attack:

> "When the judge discharges [the function of establishing the willingness of the defendant to plead guilty and warning him of his rights in open court] he leaves a record adequate for any review that may be later sought. (*Garner v. Louisiana, 368 U.S. 157, 173; Specht v. Patterson, 386 U.S. 605, 610*), and forestalls the spinoff of collateral proceedings that seek to prove murky memories."
>
> Id., at 244.

A full submission hearing will not automatically eliminate the need for later fact-finding proceedings in every instance. See, e.g., *Fontaine v. United States*, 411 U.S. 213 (1973). But where, as here, the judge conducts an inquiry which goes far beyond the bare requirements of Rule 11, Fed.R.Crim.P., which explores the defendant's willingness to plead and his motives, in the absence of allegations of actual physical duress or some allegation of diminished mental responsibility which is capable of objective proof, no collateral attack should be entertained. This question was not decided by *Fontaine*, the latest word on the subject from this Court, and it should be decided now. *Fontaine* involved an uncounseled plea of guilty and can be

distinguished from the present case on that ground. James Earl Ray had at least six attorneys from the time of his capture in London until he pleaded guilty.

Notwithstanding our argument that an evidentiary hearing on a counseled plea is unnecessary in the absence of allegations such as those we have described, it should be clear that the respondent's statements at the submission hearing and the record in the case conclusively show that he is entitled to no relief for two reasons: (1) Even if his allegations are true he is entitled to no relief; (2) The record shows conclusively that his allegations are not true.

The record conclusively shows that Ray's plea was intelligently made

Ray pleaded guilty on his forty-first birthday. He had been convicted of several felonies and was an escapee from the Missouri State Penitentiary at the time he killed Dr. King. At the time of the plea, he was represented in the courtroom by the Shelby County Public Defender, his chief assistant, and Percy Foreman of Houston, reported to be one of the most successful criminal defense attorneys in the nation. Not leaving anything to chance, the trial judge personally and at great length advised Ray of his legal rights and the implications of his plea, and was assured in turn by Ray that his attorneys had explained his rights to him. Nowhere in this record is there any allegation that the advice of Ray's attorneys was defective in any particular.[5] He merely states that the advice to plead

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[5] In *Ray v. Foreman, supra,* the Court of Appeals examined the complete record made on a complaint containing allegations substantially the same as those in Ray's habeas corpus petition. The Court concluded:

> "Under the contracts complained of, Foreman undertook no specific obligation except to defend Ray . . . We find no evidence in the record of this appeal to support the contention that Foreman did not live up to his bargain . . ." 441 F.2d at 1269.

guilty was bad under the circumstances and that, if he had gone to trial, he could have been acquitted or received a lesser sentence. There is no claim that he was unaware of the consequences of the plea or the alternatives. It is well settled that a plea entered in these circumstances is intelligently made—even if the attorney's advice is based on a mistaken notion of law or fact. *McMann v. Richardson*, 397 U.S. 759 (1970); *Tollett v. Henderson*, 411 U.S. 258 (1972). There is no way that Ray can prove that Foreman's advice to plead guilty was bad. The record in this case shows conclusively that Ray's plea was intelligently made.

The record conclusively shows that Ray's plea was voluntary

Ray assured the trial judge that his plea was voluntary and that it was not the product of threats or coercion. At one point the following exchange took place:

The Court: "Has anything besides this sentence of 99 years in the penitentiary been promised to you to get you to plead guilty? Has anything else been promised to you by anyone?"

Ray: "No it has not."

The Court: "Has any pressure of any kind by anyone in any way been used on you to get you to plead guilty?"

Ray: "No, no one in any way."[6]

Ray now says that his own attorney pressured him into this plea to increase the sales of a book about the crime. But nowhere does he allege any physical or mental duress. Indeed the

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[6] Both the majority and dissenting opinions of the Court of Appeals approved the submission hearing: "The questions asked by Judge Battle, although very thorough, were directed to the voluntariness of Ray's guilty plea." *Ray v. Rose*, — F.2d — (6th Cir. 1974) (App. pp. A-7-A-8).

only "promise" that he alleges was made was a reassignment to him of part of his rights to the Huie royalties. The petition implies that Ray pled guilty for money. We seriously doubt that such an arrangement would rob a plea of its voluntary character, even if the allegations of the petition are true.

The record conclusively shows that there was no conflict of interest on Foreman's part, but even if there was, Ray's knowledge of it, consent and aid to it precludes using it as a basis for an attack on an otherwise valid guilty plea.

The Constitution does not force a lawyer upon a defendant. *Adams v. McCann*, 317 U.S. 269, 279 (1942). Defendants can and do sometimes waive their right to counsel and plead guilty. Even if the alleged conflict of interest existed, there is no evidence or allegation of any fact which tends to indicate that the advice was bad or that the plea was tainted. Under these circumstances there is no ground for vacating the plea. *Dukes v. Warden*, 406 U.S. 250, 256 (1972).

But if a defendant can waive his right to counsel, surely he can waive objections to conflicts of interest he knows about. To make a valid waiver of counsel, all that is required is that the defendant "knows what he is doing and [that] his choice is made with eyes open." *Adams v. McCann*, 317 U.S. at 279. Or as the court held in *Carnley v. Cochran*, 369 U.S. 506, 516, the record must show that the accused "was offered counsel" and "understandingly rejected the offer." The record in this case conclusively shows that James Earl Ray actively sought the assistance of Percy Foreman, and actively participated in the transactions which created the alleged conflict of interest. The record also clearly shows that the Shelby County Public Defender was appointed over Ray's objections, and that Ray refused to cooperate with him, even though he was available throughout the proceedings. It cannot be said that he was not

"offered counsel" and that he did not "understandingly reject the offer."

His testimony in *Ray v. Foreman* (Appendix D) shows his understanding of his circumstances as well as the consequences of his plea.

CONCLUSION

Important questions of law and public policy are presented in this case and they are ripe for decision by the Court. A writ of certiorari should issue for the purpose of reviewing the decision of the Court of Appeals and putting an end to this case once and for all. Legal precedent and sound public policy require that the judgment of the Court of Appeals be reversed.

Respectfully submitted

W. HENRY HAILE
Assistant Attorney General

APPENDIX A

No. 73-1543

United States Court of Appeals
for the Sixth Circuit

James Earl Ray,
Petitioner-Appellant,
v.
J. H. Rose, Warden,
Respondent-Appellee.

Appeal from the United States District Court for the Middle District of Tennessee.

Decided and Filed January 29, 1974

Before: Phillips, Chief Judge, Celebrezze and Miller, Circuit Judges.

Miller J. delivered the opinion of the Court, in which Phillips, J. joined. Celebrezze, J. (p. 15) filed a dissenting opinion.

Miller, Circuit Judge. James Earl Ray pled guilty on March 10, 1969, in a Tennessee criminal court to the charge of first degree murder in the assassination of Dr. Martin Luther King, Jr. He was sentenced to prison for a term of 99 years. Subsequently, after state remedies were denied without an evidentiary hearing, he petitioned the court below for a writ of habeas corpus, alleging certain constitutional violations. This appeal is from the denial of the writ and the failure of the district court to hold an evidentiary hearing on Ray's claims of consti-

tutional violations. For reasons which we explain below we hold that petitioner is entitled to an evidentiary hearing.

Petitioner was arrested in London in June of 1968. While awaiting extradition, he wrote attorney Arthur Hanes of Birmingham, Alabama, requesting that Hanes visit him and discuss the case. Hanes made plans to go to London but was apparently concerned about whether Ray would be able to pay his fee. Consequently, he was receptive to the suggestion of author William Bradford Huie that Hanes persuade Ray to give Huie exclusive rights to information about Ray and, presumably, the assassination. Huie would then write a book, and Hanes, Huie and Ray would share in the royalties. In London, Hanes met with Ray, agreed to represent him, but insisted that Ray enter into certain contractual agreements. Essentially these agreements provided as follows: (1) Hanes was given complete power of attorney for Ray; (2) Ray assigned to Hanes 40% of all monies that would be received as a result of a subsequent agreement between Hanes and Huie; (3) Hanes was to act as "exclusive agent and attorney" for Ray "in the handling of his affairs, contracts, negotiations, and sale of any and all rights to information or privacy which he may have in and to his life or particular events therein to persons, groups or corporations for the purpose of writing, publishing, filming or telecasting in any form whatever.

After returning to Birmingham, Hanes met with Huie. The two then executed a tripartite contract, Hanes acting for Ray, which purportedly obligated Hanes and Ray to supply Huie with information on "The assassination of Martin Luther King, Jr., the alleged participation of Ray therein, and the life and activities of Ray . . ." Huie, in return, agreed to pay Hanes and Ray each 30% of the gross receipts from the sale of Huie's work in the form of "magazine, book, dramatic, motion picture, television and/or other adaptations of every kind."

On July 19, 1968, Ray was extradited to Memphis, Tennessee. Trial on the charge of murder was set for November 12, 1968. Only two days before the trial was to begin, Percy Foreman, a Houston attorney, responded to entreaties from Ray's brothers by visiting him in the Shelby County Jail. As a result of that meeting, Ray asked Foreman to represent him and dismissed Hanes. On the date originally scheduled for trial, Foreman appeared as Ray's counsel and was granted a continuance until March 3, 1969, so that he could properly prepare the case. However, the judge warned Ray that he had "been granted extraordinary relief at a great cost and this Court will certainly examine most critically any further attempts to change counsel."

During subsequent hearings, Foreman complained that because of the heavy burden of his other cases and also a recent illness, he would be unable to be ready for trial on March 3. The judge stood firm but ordered the public defender, Hugh Stanton, to assist Foreman and to be ready, if necessary, to take over the defense. (Ray never approved of the appointment and refused to talk to Stanton). Foreman persisted, moving again for a continuance on February 14, 1969, primarily on the ground that the investigation had been slowed because of Hanes refusal to cooperate. This motion was granted; trial was reset for April 7, 1969.

On January 29 and February 3, 1969, Ray, Huie, Hanes and Foreman executed new agreements assigning to Foreman the rights that Hanes had formerly enjoyed under the original contracts. This time, however, Foreman was to receive 60% of the income from Huie's works.

Ray never stood trial. On March 10, 1969, he pled guilty to a charge of first degree murder. Judge Battle then sentenced him to a term of 99 years in the Tennessee State Penitentiary. Almost immediately thereafter Ray wrote Judge

Battle, asking for a trial and requesting appointment of counsel to assist him. Judge Battle died before acting on these requests. Subsequently the motions were denied by another judge.

Ray's petition for habeas corpus relief was filed in the court below on December 4, 1969. The court denied an evidentiary hearing and held that petitioner's plea of guilty was knowing and intelligent and thereby operated as a waiver of all non-jurisdictional, constitutional defects. Moreover, the factual allegations were found to be insufficient to justify a holding that petitioner's constitutional rights were violated. Petitioner appeals from that decision.

Ray alleges that a number of his constitutional rights were violated during the course of his incarceration and the proceedings which culminated in his plea of guilty. In holding that the petition stated sufficient facts to show, if established as true, that the guilty plea was not intelligently and voluntarily entered, we focus primarily upon those factual allegations concerning improper and ineffective representation by counsel.

Petitioner asserts that the financial interest of his attorneys in the royalties from Huie's works created a conflict of interest which encouraged the attorneys to compromise Ray's defense in order to aid the sale of the book and possible movie. Foreman is alleged to have threatened and coerced both Ray and his family into a guilty plea. The reason for the pressure, allegedly, is that the book rights would be of little value were Ray to have been tried and found innocent.[1] As a result, petitioner asserts that he was denied effective assistance of counsel and that the plea of guilty was neither voluntary nor intelligent.

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[1] The assassination of Dr. Martin Luther King, Jr., because of his preeminence as a civil rights leader, engendered worldwide notoriety and vast publicity. Ray's arrest in London and his subsequent indictment, as well as his plea of guilty, were also matters of intense public interest.

In support of his contentions, petitioner enumerates a long list of factual allegations. The following is a summarization of some of the most pertinent:

(1) Hanes had apparently authorized Huie to conduct the investigation of Ray's case. When Ray requested that a professional investigator be hired, Hanes refused.

(2) Ray felt that at trial it would be necessary for him to take the stand in his own defense so that he could explain his actions on the day of the murder. Hanes rejected the idea saying, "Why give testimony away when we can sell it?"[2]

(3) Ray urged Hanes to seek a continuance because of substantial, adverse pretrial publicity. Hanes refused because the contract with Huie provided that they must go to trial within a certain number of days.

(4) When Foreman replaced Hanes as counsel, Ray asked him to hire a Tennessee lawyer to assist in the case. Foreman said that he would retain John J. Hooker, Sr., but he never did.

(5) Despite the urgings of Ray, Foreman refused to take any action to halt adverse, pretrial publicity.

(6) On February 13, 1969, Foreman brought a document to the jail which he urged Ray to sign. Included therein was an authorization for Foreman to negotiate a guilty plea and also a waiver of any claim against either Huie or *Look* magazine for damaging Ray's chances for a fair trial. Ray signed the document but gave Foreman a two-page letter listing reasons why

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[2] Petitioner contends that Huie offered to pay $12,000 either to him or his family if he would refuse to take the witness stand.

he should not plead guilty. Foreman said that it would be in Ray's interest to plead guilty even if he had not committed the crime: First, Ray stood to benefit financially. Second, John J. Hooker[3] would be the next governor of Tennessee, and he would give Ray a pardon within two or three years. Third, the prosecution was prepared to bribe a key witness to testify against Ray. Fourth, Foreman indicated to Ray that if he refused to plead guilty, Foreman would exercise less than his best efforts at trial. Finally, he told Ray that he would not withdraw from the case and that Judge Battle would not allow Ray to change attorneys.

(7) Neither Foreman nor Hanes made any active investigation of the case against Ray.

(8) By letter of March 9, 1969, Foreman agreed to advance $500 to Ray's brother Jerry "contingent upon the plea of guilty and sentence going through on March 10, 1969, without any unseemly conduct on your part in court."

(9) By a different letter of March 9, 1969, Foreman agreed to assign to Ray all income in excess of $165,000 which Foreman would receive from Huie's work. The assignment would take place when "the plea is entered and the sentence accepted and no embarrassing circumstances take place in the court room . . . ."

In deciding whether petitioner's claims of constitutional violations warrant an evidentiary hearing, we are guided by the standards laid down by the Supreme Court in *Townsend v. Sain*, 372 U.S. 293 (1963). The Court there held that a district court *must* grant a hearing to an applicant for habeas corpus when-

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[3] Presumably, Ray meant John J. Hooker, Jr. who was a candidate for governor in 1970.

ever "the merits of the factual dispute were not resolved in the state hearing . . ." 372 U.S. at 313. Elaborating on that directive, the Court said:

> We hold that a federal court must grant an evidentiary hearing to a habeas applicant under the following circumstances: If (1) the merits of the factual dispute were not resolved in the state hearing; (2) the state factual determination is not fairly supported by the record as a whole; (3) the fact-finding procedure employed by the state court was not adequate to afford a full and fair hearing; (4) there is a substantial allegation of newly discovered evidence; (5) the material facts were not adequately developed at the state-court hearing; or (6) for any reason it appears that the state trier of fact did not afford the habeas applicant a full and fair fact hearing.
>
> There cannot even be the semblance of a full and fair hearing unless the state court actually reached and decided the issues of fact tendered by the defendant. Thus, if no express findings of fact have been made by the state court, the District Court must initially determine whether the state court has impliedly found material facts. No relevant findings have been made unless the state court decided the constitutional claim tendered by the defendant on the merits. 372 U.S. at 313-314.

Applying these guidelines it is clear that the allegations which are the subject of Ray's petition have never been tried upon their merits or resolved by any court—allegations which, if true, plainly negative any notion or idea that his guilty plea and his answers to Judge Battle were made voluntarily and intelligently. When petitioner entered his plea of guilty, Judge Battle, the Tennessee trial judge, instructed him as to his constitutional rights, as required, *see Boykin v. Alabama*, 395 U.S. 238 (1969), but no inquiry was made into the specific contentions that are now before this Court. The questions asked by Judge

Battle, although very thorough, were directed to the voluntariness of Ray's guilty plea. Although these questions may have touched *inferentially* on the allegations in Ray's petition, we believe that the Court in *Townsend v. Sain, supra,* contemplated more than inferential treatment when it spoke of a "full and fair" hearing on the merits. Only by such a hearing may it be determined whether the plea was intelligent or voluntary or entered as the result of coercion, threats and promises.

The district court held that no hearing was required because the allegations, even if true, would not warrant issuance of the writ. Specifically, the court found that "the advice given to petitioner by his privately retained counsel 'was within the range of competence demanded of attorneys in criminal cases.' " We do not agree. The allegations which we have recited above, if true, would support a finding that Ray's attorneys deliberately compromised their client's interests in order to further the financial success of Huie's works in which they themselves had a substantial interest. Such conduct would constitute an outrageous abrogation of the standards which the legal profession sets for itself and upon which its clients have a right to rely. Clearly, these examples of misrepresentation, coercion and refusal to prepare for trial or protect the petitioner cannot be said to be within the acceptable range of competence of an attorney. Instead, if petitioner's assertions are correct, the actions of his attorneys made his defense "a farce and mockery of justice that would be shocking to the conscience of the court." *Matthews v. Wingo,* No. 72-1515 (6th Cir. March 1, 1973) (Slip opinion at 3). If the allegations of the petitioner are correct, the trier of the facts might easily infer that Ray in entering his plea of guilty before Judge Battle and in acknowledging his guilt and the voluntariness of his plea, was acting because of the wrongful conduct and pressure of his attorneys—amounting to intimidation and coercion on their part. It would be difficult to conjure up a more flagrant violation of an attorney's duty to his client or one more likely to prejudice him in the defense of

his case. While a lawyer in some circumstances may appropriately advise his client to plead guilty if he has knowledge of the pertinent acts and his advice is honestly and conscientiously given, the opposite is true when the attorney induces a plea of guilty solely for his own gain and without performing the minimum service of investigating the true facts of the case. The latter is true in the present case if we accept, as we must, the allegations of the petitioner. If an attorney's duty is faithfully to protect and represent his client's interests, uninfluenced and unaffected by conflicting considerations, as the courts have held (leaving aside for the moment the "farce and mockery of justice" test), the necessity for an evidentiary hearing in the present case would appear to be inevitable. *West v. Louisiana*, 478 F.2d 1026 (5th Cir. 1973). We are not willing to sanction a rule that would permit an attorney to subordinate the rights of his client to receive fair and honest legal advice and related services to his own selfish interests.

Since petitioner plead guilty, he has waived his right to raise these possible constitutional violations unless it is shown that the waiver was made either involuntarily or unintelligently. *United States v. Cox*, 464 F.2d 937 (6th Cir. 1972). Waivers of constitutional rights are not lightly to be found. All of the surrounding circumstances should be examined to determine whether the waiver was in fact the product of improper coercion or inducement. *Cf. Haynes v. Washington*, 373 U.S. 503 (1963); *Baykin v. Alabama, supra.* Moreover, the role of competent counsel is crucial in advising the defendant of the nature of the charges and the defenses available to him—so much so in fact that pleas entered without the assistance of counsel are subject to special scrutiny. *Brady v. United States*, 397 U.S. 742, 748 n.6 (1970). In recent cases in which the Supreme Court has found guilty pleas to be voluntary, it has assiduously pointed to the presence of competent counsel. *See Brady v. United States, supra* at 756; *McMann v. Richardson*, 397 U.S. 759, 767 (1970); *see also Colson v. Smith*, 438

F.2d 1075 (5th Cir. 1971). If pleas entered in the absence of counsel are subject to special scrutiny, it follows, a fortiori, that allegations that counsel having a direct conflict of interest have so abused their position of trust as to induce a plea of guilty, should at least be examined to determine their accuracy.

If the allegations are correct, petitioner's counsel not only did not properly advise him but deliberately misled and coerced him. It is inconceivable to us how a plea entered under these circumstances could be either intelligent or voluntary. We are mindful that at the time of sentencing Judge Battle asked Ray whether his plea was the result of pressure, threats or promises. He was also asked if he fully understood that a plea bargain had been reached whereby he would receive a 99-year sentence, thus avoiding a sentence of death. Petitioner answered in the negative as to threats, promises or coercion, and assured the court that he was aware of the plea bargain and that his plea was made voluntarily and intelligently. Yet in light of the total circumstances preceding his sentencing, *see Haynes v. Washington, supra,* Ray could easily have believed that he had no other choice. He could follow the scenario prescribed by Foreman in his letter of March 9, 1969—enter the plea and accept sentence without creating any "embarrassing circumstances . . . in the court room"—or he could have gone to trial with the reasonable belief, if the contentions are accurate, that a fair hearing would be impossible.

In *Dukes v. Warden,* 406 U.S. 250 (1972), the Supreme Court of Connecticut had reviewed the case of a petitioner who alleged that his plea of guilty was involuntary because his attorney had a conflict of interest. It held that on the specific facts presented the plea could not be said to be involuntary. The Supreme Court of the United States in affirming the Connecticut court quoted with approval the following from its opinion:

> There is nothing in the record before us which would indicate that the alleged conflict resulted in ineffective assistance of counsel and did in fact render the plea in question involuntary and unintelligent. [Petitioner] does not claim, and it is nowhere indicated in the finding, nor could it be inferred from the finding, that either Attorney Zaccagnino or Attorney Delaney induced [petitioner] to plead guilty in furtherance of a plan to obtain more favorable consideration from the court for other clients. . . . Neither does the finding in any way disclose, nor is it claimed, that [petitioner] received misleading advice from Attorney Zaccagnino or Attorney Delaney which led him to plead guilty. . . . 406 U.S. at 256.

This is a far cry from the facts alleged in the present case where the most egregious kind of conflict of interest is not only alleged but is directly stated to have caused and acutally induced the plea of guilty.

Reversed and remanded.[4]

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[4] Foreman's two letters of March 9, 1969 are included in the appendix to this opinion. Although Ray dismissed Hanes as his attorney, the record indicates that Hanes had received a substantial sum of money prior to the dismissal. Before Ray was sentenced on his plea of guilty two articles, written by Huie pertaining to the case, had been published by Look magazine. Also, after the sentence was imposed a book, authored by Huie, concerning the same subject was published. It is to be inferred that these various publications produced a substantial sum of money, the exact distribution of which is not shown. The entire record reeks with ethical, moral and professional irregularities, demanding a full scale judicial inquiry. Without such a hearing, the record leaves no alternative to the conclusion that Ray's attorneys were more interested in capitalizing on a notorious case than in representing the best interests of their client.

Appendix

Law Offices of Percy Foreman
804 South Coast Building
Houston, Texas 77002

CA 4-9321

March 9th, '69

Mr. James Earl Ray,
Shelby County Jail,
Memphis, Tennessee.

Dear James Earl:

You have heretofore assigned me all of your royalties from magazine articles, book, motion picture or other revenue to be derived from the writings of Wm. Bradford Huie. These are my own property unconditionally.

However, you have heretofore authorized and requested me to negotiate a plea of guilty if the State of Tennessee through its District Attorney General and with the approval of the trial judge would waive the death penalty. You agreed to accept a sentence of 99 years.

It is contemplated that your case will be disposed of tomorrow, March 10, by the above plea and sentence. This will shorten the trial considerably. In consideration of the time it will save me, I am willing to make the following adjustment of my fee arrangement with you:

If the plea is entered and the sentence accepted and no embarrasing circumstances take place in the court room, I am willing to assign to any bank, trust company or individual

selected by you all my receipts under the above assignment in excess of $165,000.00. These funds over and above the first $165,000.00 will be held by such bank, trust company or individual subject to your order.

I have either spent or obligated myself to spend in excess of $14,000.00, and I think these expenses should be paid in addition to a $150,000.00 fee. I am sure the expenses will exceed $15,000.00 but I am willing to rest on that figure.

Yours truly,

/s/ PERCY FOREMAN

Law Offices of Percy Foreman
804 South Coast Building
Houston, Texas 77002

CA 4-9321

March 9, 1969

Mr. James Earl Ray,
Shelby County Jail,
Memphis, Texas. (sic)

Dear James Earl:

You have asked that I advance to Jerry Ray five ($500.00) of the "$5,000.00", referring to the first five thousand dollars paid by Wm. Bradford Huie. On January 29th, Mr. Huie advanced an additional $5,000.00. At that time I had spent in excess of $9,500.00 on your case. Since then, I have spent in excess of $4,000.00 additional.

But I am willing to advance Jerry $500.00 and add it to the $165,000.00 mentioned in my other letter to you today. In other words, I would receive the first $165,500.00. But I would not make any other advances—just this one $500.00.

And this advance, also, is contingent upon the plea of guilty and sentence going through on March 10, 1969, without any unseemly conduct on your part in court.

Yours truly,

/s/ PERCY FOREMAN

PF-4

P.S. The rifle and the white mustang are tied up in the suit filed by Renfro Hays. Court costs and attorneys fees will be necessary, perhaps, to get them released. I will credit the $165,500.00 with whatever they bring over the cost of obtaining them, if any.

/s/ PERCY FOREMAN

/s/ JAMES EARL RAY

Celebrezze, Circuit Judge, dissenting. I must respectfully dissent from the majority.

If there existed undue pressure by counsel on Defendant to enter a guilty plea, the Defendant owed a duty to the Court to answer honestly the question put to him by the Court at the time of the entry of the plea.

The record discloses that the trial judge, in questioning Ray, very thoroughly inquired into the voluntariness of Ray's guilty plea and the consequences which would result therefrom. In no uncertain terms, Ray stated that his plea was being entered

voluntarily and without pressure of any kind.[1] The record thus discloses that Ray "voluntarily and understandingly" entered his plea of guilty. *Boykin v. Alabama*, 395 U.S. 238 (1969).

We are now asked to vacate the plea because it is alleged that it was in fact the result of coercion. Thus, we are asked to ignore the record in this case. In so doing, the Court leaves open for attack convictions which have been obtained in a manner specifically designed for the protection of the defendant. Indeed, the very reasons for conducting a thorough on the record examination of the defendant are to guard against the entering of a guilty plea which is not an intelligent and knowledgeable plea and to insulate the conviction from attack on the basis that it did not comport with due process. *Boykin v. Alabama, supra*, 395 U.S. at 244 n.7.

Although we expressiy reserved judgment on the issue presently before us, we previously determined that allegations involving the same conduct of Ray's attorneys as is involved here, did not support a finding that Ray was not properly defended. *Ray v. Foreman*, 441 F.2d 1266 (6th Cir. 1971).

I would affirm the District Court's denial of the writ.

Appendix to Dissenting Opinion

The Court: This is a compromise and settlement on a plea of guilty to murder in the first degree and an agreed settlement of 99 years in the Penitentiary, is that true?

Mr. Foreman: That's the agreement, your Honor.

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[1] The examination of Ray by the District Court is included in the appendix to dissenting opinion.

The Court: Is that the agreement? Alright, I'll have to voir dire Mr. Ray, James Earl Ray, stand. Have you a lawyer to explain all your rights to you and do you understand them?

A. Yes, sir.

The Court: Do you know that you have a right to a trial by jury on a charge of Murder in the First Degree against you, the punishment for Murder in the First Degree ranging from death by electrocution to any time over 20 years. The burden of proof is on the State of Tennessee to prove you guilty beyond a reasonable doubt and to a moral certainty and the decision of the jury must be unanimous, both as to guilt and punishment. In the event of a jury verdict against you, you would have the right to file a Motion for a New Trial addressed to the Trial Judge. In the event of an adverse ruling against you on your Motion for a New Trial, you would have the right to successive appeals to the Tennessee Court of Criminal Appeals and the Supreme Court of Tennessee and to file a Petition for Review by the Supreme Court of the United States. Do you understand that you have all of these rights?

A. Yes, sir.

The Court: You are entering a plea of guilty to Murder in the First Degree as charged in the indictment and are compromising and settling your case on an agreed punishment of 99 years in the State Penitentiary. Is this what you want to do?

A. Yes, I do.

The Court: Is this what you want to do?

A. Yes, sir.

The Court: Do you understand that you are waiving, which means giving up a formal trial by your plea of guilty although the laws of this State require the prosecution to present certain evidence to a jury in all cases on pleas of guilty to Murder in the First Degree? By your plea of guilty, you are also waiv-

ing your right to one, your Motion for a New Trial; two successive appeals to the Supreme Court, to the Tennessee Court of Criminal Appeals and the Supreme Court of Tennessee and three, Petition to Review by the Supreme Court of the United States. By your plea of guilty, you are also abandoning and waiving your objections and exceptions to all the motions and petitions in which the Court has heretofore ruled against you in whole or in part among them being one, Motion to Withdraw Plea and Quash Indictment; two, Motion to Inspect the Evidence; three, Motion to Remove Lights and Cameras from the Jail; four, Motion for Private Consultation with Attorney; five, Petition to Authorize Defendant to Take Depositions; six, Motion to Permit Conference with Huie; seven, Motion to Permit Photographs; eight, Motion to Designate Court Reporters; nine, Motion to Stipulate Testimony, ten, Suggestion of Proper Name. You are waiving or giving up all these rights. Has anything besides this sentence of 99 years in the Penitentiary been promised to you to get you to plead guilty? Has anything else been promised to you by anyone?

A. No, it has not.

The Court: Has any pressure of any kind by anyone in any way been used on you to get you to plead guilty?

A. No, no one, in any way.

The Court: Are you pleading guilty to Murder in the First Degree in this case because you killed Dr. Martin Luther King under such circumstances that it would make you legally guilty of Murder in the First Degree under the law as explained to you by your lawyers?

A. Yes, legally, yes.

The Court: Is this plea of guilty to Murder in the First Degree with an agreed punishment of 99 years in the State Penitentiary freely, voluntarily and understandingly made and entered by you?

A. Yes, sir.

The Court: Is this plea of guilty on your part the free act of your free will made with your full knowledge and understanding of its meaning and consequences?

A. Yes, sir.

The Court: You may be seated. Alright, are you ready for a jury?

Mr. Foreman: Yes, your Honor.

APPENDIX B

In the United States District Court for the Middle District of Tennessee, Nashville Division

James Earl Ray,
Petitioner,

vs.

Mr. J. H. Rose, Warden, Tennessee State Penitentiary,
Respondent.

Civil Action No. 6800

Memorandum

(Received for Entry March 30, 1973)

This is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254. While petitioner raises a myriad of issues in his massive pleadings, the central and determinative issue is whether petitioner, on March 10, 1969, voluntarily, knowingly, and intelligently entered a plea of guilty to the first degree murder of Dr. Martin Luther King, Jr. If petitioner did enter a voluntary, knowing and intelligent guilty plea while represented by competent counsel, then any and all non-jurisdictional defects raised by this petition were waived. *United States v. Cox*, 464 F.2d 937, 940 (6th Cir. 1972), citing cases; *Henderson v. Tollett*, 459 F.2d 237, 241 (6th Cir. 1972), *cert. granted* — U.S. —, 34 L.Ed.2d 172 (1972). See S.Ct. decision—also *Davis*.

The respondent, by his answer of December 27, 1972, has moved the court to dismiss the petition. In determining whether the petition should be dismissed without an evidentiary hear-

ing, the court must of course treat all factual allegations properly pleaded as true. However, mere conclusory allegations without more are not sufficient to justify an evidentiary hearing to determine their truth or falsity. *Matthews v. Wingo*, No. 72-1515 (6th Cir., decided March 1, 1973). "[V]ague, conclusory, or palpably incredible" allegations in a petition for writ of habeas corpus do not justify an evidentiary hearing.[1] *Machibroda v. United States*, 368 U.S. 487, 495 (1962). Nor do "patently frivolous or false" allegations necessitate an evidentiary hearing. *Pennsylvania ex rel. Herman v. Claudy*, 350 U.S. 116, 119 (1956). *See also McMann v. Richardson*, 397 U.S. 759, 787, Brennan. J., dissent (1970).

Dr. Martin Luther King, Jr. was fatally struck down by a rifle shot in Memphis, Tennessee, on April 4, 1968.[2] Petitioner James Earl Ray, with his assorted aliases, was indicted by the Grand Jury of Shelby County, Tennessee, for murder in the first degree on May 7, 1968. The indictment charged that petitioner "did unlawfully, feloniously, wilfully, deliberately, premeditatedly and of his malice aforethought Kill and Murder Martin Luther King, Jr." (See Exhibit filed March 20, 1973.) Petitioner was arrested at Heathrow Airport in London, England, on June 8, 1968. While still in London, petitioner wrote to and retained the services of Arthur Hanes, Sr., a member of the bar of the State of Alabama. After an extradition hearing, at which he was represented by an English court-appointed counsel, petitioner was returned to Memphis, Tennessee, and there placed in jail on July 19, 1968.

By letter dated November 10, 1968, petitioner discharged Arthur Hanes, Sr. as his attorney, citing "some disagreements

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[1] This petition is liberally spiced with factually unsupported conclusory allegations.

[2] Petitioner asserts that "[t]he assassination of Dr. King was a political event." (Memorandum of Facts, p. 45)

between me and you in regards to the handling of my case . . ." as the reason. (Exhibit 31 to Complaint) On November 12, 1968, Percy Foreman, a member of the Texas bar, was enrolled as the new attorney for the petitioner. On that date the trial court continued the case until March 3, 1969. On December 18, 1968, the late trial judge Preston Battle appointed the public defender, Hugh Stanton, Sr., a member of the Tennessee bar, to also represent the petitioner in the state criminal proceedings. The pleadings reflect that Hugh Stanton, Jr., a member of the bar of Tennessee, assisted attorneys Foreman and Stanton, Sr. in rendering legal assistance to the petitioner.

On March 10, 1969, a Petition for Waiver of Trial and Request for Acceptance of Plea of Guilty, signed by petitioner and by attorneys Percy Foreman, Hugh Stanton, Sr., and Hugh Stanton, Jr., was presented to the state trial court. This petition reads in its entirety:

"In the Criminal Court of Shelby County, Tennessee
Division III

State of Tennessee

vs.

James Earl Ray,

Defendant.

No. 16645

"Petition for Waiver of Trial and Request for Acceptance of Plea of Guilty

"That my true full name is James Earl Ray and I assert that all proceedings against me should be had in the name which I hereby declare to be my true name.

"My attorney in the cause is Percy Foreman, who was selected and retained by me, and Hugh Stanton, Sr., Public Defender, who was appointed by the Court to represent me in this cause.

"I have received a copy of the indictment before being called upon to plead, and I have read and discussed it with my attorney, and believe and feel that I understand the accusation made against me in this case and in each case listed herein. I hereby waive the formal reading of the indictment.

"I have told my attorney the facts and surrounding circumstances as known to me concerning the matters mentioned in the indictments, and believe and feel that my attorney is fully informed as to all such matters. My attorney has informed me at [sic] to the nature and cause of each accusation against me, and as to any and all possible defenses I might have in this cause.

"My attorney has advised me as to the punishment provided by law for the offenses charged and embraced in the indictment against me. My attorney has further advised that punishment which the law provides for the crime with which I am charged in the indictment is as follows:

> death by eletrocution or confinement in the State Penitentiary for life or for some period of time over twenty (20) years

and if accepted by the Court and Jury my sentence on a plea of guilty will be:

> confinement in the State Penitentiary for ninety-nine years (99).

"It has been fully explained to me and I understand that I may, if I so choose, plead 'Not Guilty' to any offense charged against me, and that if I choose to plead 'Not Guilty' the Con-

stitution guarantees and this Court will provide me the right to a speedy and public trial by jury; the right to see and hear all witnesses against me; the right to use the power and process of the Court to compell the production of any evidence, including the attendance of any witness, in my favor; and the right to have the assistance of counsel in my defense at all stages of the proceedings.

"In the exercise of my own free will and choice and without any threats or pressure of any kind or promises of gain or favor from any source whatsoever, and being fully aware of the action I am taking, I do hereby in open Court request the Court to accept my plea of guilty to the charges outlined herein. I hereby waive any right I may or could have to a Motion for a New Trial, and/or an appeal.

/s/ JAMES EARL RAY
Defendant

Witness:

/s/ PERCY FOREMAN
/s/ HUGH STANTON, SR.
/s/ HUGH STANTON, JR."

The trial court then proceeded to hold a hearing on this Petition for Waiver of Trial and Request for Acceptance of Plea of Guilty. The portions of that hearing most material to petitioner's current assertion that he was unlawfully coerced into entering an involuntary plea of guilty to murder in the first degree are as follows:

"James Earl Ray—Guilty Plea

Monday, March 10, 1969

"The Court: The calendar has been transferred to Division I. Alright, I believe the only matter we have pending before us is the matter of James Earl Ray.

"Mr. Foreman: Would your Honor give me just a minute?

"The Court: Yes, Sir.

"Mr. Foreman: May it please the Court, in this cause, we have prepared the defendant and I have signed and Mr. Hugh Stanton, Sr. and Jr. will now sign a Petition for Waiver of Trial and Request for Acceptance of Plea of Guilty. We have an order, I believe the Clerk has this.

"The Court: This is a compromise and settlement on a plea of guilty to murder in the first degree and an agreed settlement of 99 years in the Penitentiary, is that true?

"Mr. Foreman: That's the agreement, your Honor.

"The Court: Is that the agreement? Alright, I'll have to voir dire Mr. Ray, James Earl Ray, stand. Have you a lawyer to explain all your rights to you and do you understand them?

"A. Yes, Sir.

"The Court: Do you know that you have a right to a trial by jury on a charge of Murder in the First Degree against you, the punishment for Murder in the First Degree ranging from death by electrocution to any time over 20 years. The burden of proof is on the State of Tennessee to prove you guilty beyond a reasonable doubt and to a moral certainty and the decision of the jury must be unanimous, both as to guilt and punishment. In the event of a jury verdict against you, you would have the right to file a Motion for a New Trial addressed to the Trial Judge. In the event of an adverse ruling against you on your Motion for a New Trial, you would have the right to successive appeals to the Tennessee Court of Criminal Appeals and the Supreme Court of Tennessee and to file a Petition for Review by the Supreme Court of the United

States. Do you understand that you have all of these rights?

"A. Yes, Sir.

"The Court: You are entering a plea of guilty to Murder in the First Degree as charged in the indictment and are compromising and settling your case on an agreed punishment of 99 years in the State Penitentiary. Is this what you want to do?

"A. Yes, I do.

"The Court: Is this what you want to do?

"A. Yes, Sir.

"The Court: Do you understand that you are waiving, which means giving up a formal trial by your plea of guilty although the laws of this State require the prosecution to present certain evidence to a jury in all cases on pleas of guilty to Murder in the First Degree? By your plea of guilty, you are also waiving your right to one, your Motion for a New Trial; two, successive appeals to the Supreme Court, to the Tennessee Court of Criminal Appeals and the Supreme Court of Tennessee and three, Petition to Review by the Supreme Court of the United States. By your plea of guilty, you are also abandoning and waiving your objections and exceptions to all the motions and petitions in which the Court has heretofore ruled against you in whole or in part among them being one, Motion to Withdraw Plea and Quash Indictment; two, Motion to Inspect the Evidence; three, Motion to Remove Lights and Cameras from the Jail; four, Motion for Private Consultation with Attorney; five, Petition to Authorize Defendant to Take Depositions; six, Motion to Permit Conference with Huie; seven, Motion to Permit Photographs; eight, Motion to Designate Court Reporters; nine, Motion to Stipulate Testimony; ten, Suggestion of

Proper Name. You are waiving or giving up all these rights. Has anything besides this sentence of 99 years in the Penitentiary been promised to you to get you to plead guilty? Has anything else been promised to you by anyone?

"A. No, it has not.

"The Court: Has any pressure of any kind by anyone in any way been used on you to get you to plead guilty?

"A. No, No one, in any way.

"The Court: Are you pleading guilty to Murder in the First Degree in this case because you killed Dr. Martin Luther King under such circumstances that it would make you legally guilty of Murder in the First Degree under the law as explained to you by your lawyers?

"A. Yes, legally, yes.

"The Court: Is this plea of guilty to Murder in the First Degree with an agreed punishment of 99 years in the State Penitentiary freely, voluntarily and understandingly made and entered by you?

"A. Yes, sir.

"The Court: Is this plea of guilty on your part the free act of your free will made with your full knowledge and understanding of its meaning and consequences?

"A. Yes, sir.

"The Court: You may be seated. Alright, are you ready for a jury?

"Mr. Foreman: Yes, Your Honor.

* * * * * * * *

"James Earl Ray: Your Honor, I would like to say something. I don't want to change anything that I have said, but I just want to enter one other thing. The only

thing that I have to say is that I can't agree with Mr. Clark.

"Mr. Foreman: Ramsey Clark.

"The Court: Mr. who?

"James Earl Ray: Mr. J. Edgar Hoover, I agree with all these stipulations, and I am not trying to change anything.

"The Court: You don't agree with whose theories?

"James Earl Ray: Mr. Canale's, Mr. Clark's, and Mr. J. Edgar Hoover's about the conspiracy. I don't want to add something on that I haven't agreed to in the past.

"Mr. Foreman: I think, that what he said is that he doesn't agree that Ramsey Clark is right, or that J. Edgar Hoover is right. I didn't argue that as evidence in this case, I simply stated that under riding the statement of General Canale that they had made the same statement. You are not required to agree with it all.

"The Court: You still, your answers to these questions that I asked you would still be the same? Is that correct?

"James Earl Ray: Yes, sir.

"The Court: There is nothing in these questions that I have asked you and your answers to them, you change none of them at all. In other words, you are pleading guilty to, and taking 99 years, I think the main question that I want to ask you is this: are you pleading guilty to Murder in the First Degree in this case because you killed Dr. Martin Luther King under such circumstances that it would make you legally guilty of Murder in the First Degree under the law as explained to you by your lawyer. Your answer is still yes? Alright, sir, that is all, you may swear the jury." (Exhibit 5 to Answer, pp. 1-5, 16-18.)

The trial court on the same date entered a written "Order Authorizing Waiver of Trial and Accepting Plea of Guilty" (Exhibit 6 to Answer, pp. 18, 19). In this order the trial court found inter alia that the defendant Ray,

> ". . . intelligently and understandingly waives his right to a trial and of his own free will and choice and without any threats or pressure of any kind or promises, other than the recommendation of the State as to punishment; and does desire to enter a plea of guilty and accept the recommendation of the State as to punishment, waives his right to a Motion for a New Trial and/or an appeal" (Exhibit 6 to Answer, p. 19).

The trial court also approved the petitioner's entry of a plea of guilty in return for a sentence of 99 years. The State then introduced strong evidence indicating that on April 4, 1968, petitioner fired a rifle from a rooming house bathroom and fatally wounded Dr. Martin Luther King, Jr. as he stood on the balcony of the Lorraine Motel. The jury accepted the plea of guilty and the sentence of 99 years, and the court so entered the judgment.

The record of the March 10, 1969, proceedings in the Criminal Court of Shelby County affirmatively reflects that petitioner voluntarily, knowingly, and intelligently pleaded guilty to murder in the first degree. The record also affirmatively reflects that petitioner had a full understanding of the connotation of his plea of guilty and its consequences. *See Boykin v. Alabama,* 395 U.S. 238, 244 (1969). The record of these state criminal court proceedings indicates that the plea represented "a voluntary and intelligent choice among the alternative courses of action open to the defendant." *North Carolina v. Alford,* 400 U.S. 25, 31 (1970).

It appears to the court that the specific central and determinative issue raised by the massive pleadings in this case is

this: Were illicit pressures placed upon the petitioner to such an extent that he did not voluntarily enter the plea of guilty?[3] The record of the state criminal proceedings of March 10, 1969, is certainly relevant on this issue; however, it is not conclusive. The court must consider all the relevant circumstances, both individually and collectively, surrounding the entry of the plea of guilty in determining the issue of voluntariness. *Brady v. United States*, 397 U.S. 742, 749 (1970); *Kennedy v. United States*, 397 F.2d 16 (6th Cir. 1968).

To support his contention that he was coerced into an involuntary plea of guilty, petitioner makes the following allegations:

1. Exculpatory evidence was withheld from petitioner by the British and American governments and the State of Tennessee.

2. Cruel and unusual punishment was inflicted upon petitioner during his incarceration prior to trial, vitiating his capacity to freely and voluntarily enter a plea.

3. Irreconcilable conflicts of interest on the part of petitioner's attorneys engendered enormous prejudicial publicity and caused his attorneys to pressure him not to take the witness stand in his own defense and instead to enter a plea of guilty against his will.

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[3] Petitioner does not factually contend that he did not fully understand the acts which constituted the crime of which he was charged. Nor does petitioner assert that he was not fully advised as to what constitutes the crime of murder in the first degree in Tennessee under T.C.A. § 39-2402. Further, petitioner does not assert that he was not fully aware of the consequences of his plea of guilty.

While petitioner does now maintain that he is innocent of the shooting of Dr. King, it is the law that a criminal defendant may enter a valid plea of guilty while refusing to admit his participation in the acts constituting the crime. *North Carolina v. Alford, supra.* In any case, at the hearing on his plea of guilty, petitioner did admit in open court that he killed Dr. King. In considering this petition for writ of habeas corpus, this court is not concerned, of course, with guilt or innocence, but with whether constitutional rights were violated as alleged.

4. Petitioner's attorney entered into direct negotiation of the guilty plea with the trial judge.

5. By means of duress and bribery, petitioner's attorney coerced him into pleading guilty.

6. Petitioner's only alternative to the pressures upon him and the conflicts of interest which denied him the right to effective assistance of counsel was foreclosed because the trial judge denied him the right to change attorneys.

A plea of guilty, which involves a waiver of various constitutional rights, must "be the voluntary expression of his own choice." *Brady v. United States, supra,* at 748. But for a plea of guilty to be valid, more than voluntariness is required. "Waivers of constitutional rights not only must be voluntary but must be knowing, intelligent acts done with sufficient awareness of the relevant circumstances and likely consequences." *Id.*

The court will consider each of the allegations individually, and then collectively as to the issue of the validity of the plea.

Petitioner's first allegation that exculpatory evidence was withheld from him is patently frivolous. Petitioner does not cite to the court any evidence withheld which "would tend to exculpate him or reduce the penalty." *Brady v. Maryland,* 373 U.S. 83, 87, 88 (1963). Nowhere in the pleadings, neither in the petition, any memoranda, exhibits, nor in the traverse, does the court find a factual allegation that the authorities withheld any evidence that would be favorable to petitioner and material either to guilt or punishment. *Id* at 87.

Petitioner's second allegation that the conditions of his confinement in the jail in Memphis vitiated his capacity to freely and voluntarily enter a plea is merely conclusory and not supported by sufficient factual allegations.[4] Petitioner alleges no

[4] Petitioner filed a motion to remove lights and cameras from the jail which was denied by the state trial judge. (See Exhibit 5 to Answer, p. 4)

facts that would be sufficient to justify a finding by this court that his mental, emotional or physical condition deteriorated to such an extent that he was unable to voluntarily, knowingly, and intelligently enter a plea. There are no factual allegations that petitioner's mental, emotional or physical condition deteriorated to the extent that it "vitiated his ability to resist the improper pressures . . ." (Petition, p. 15) The court considers a bare allegation that petitioner "became extremely nervous and suffered from chronic headaches and nosebleeds" (Petition, p. 16) to be insufficient. Taking this bare allegation as true, the court finds that, standing alone, it would not render his plea involuntary. There is no allegation that petitioner was denied adequate medical care. Nor does petitioner present to the court any factual medical basis for his alleged deteriorated condition. Further, it appears to the court that had the case proceeded to trial, petitioner's stay in the Memphis jail would have been only a few days more than was apparently the case with the plea of guilty. Thus, the court doubts that petitioner was motivated to plead guilty so that he would be moved from the strict security of the Memphis jail.

Petitioner contends in his third allegation that the various contracts and agreements which contemplated the supplying of information by Ray to Huie resulted in damaging prejudicial publicity. Petitioner contends that the publicity generated by these contracts and agreements, together with publicity from other sources, had the effect of denying him his due process rights to a fair trial before a fair and impartial jury. Thus, petitioner apparently contends that as he had already been convicted by the press he was consequently coerced into pleading guilty and negotiating a sentence. This allegation is not sufficiently supported by factual allegations. There are no particularized allegations as to how the publicity rendered his plea involuntary. Petitioner filed various exhibits indicating that he was the subject of widespread publicity and then expresses his conclusion that a fair trial would have been denied him. The court finds

that the factual allegations, including the exhibits filed by petitioner, are insufficient to justify such a conclusion. Petitioner presents no factually supported allegation that a fair and impartial jury could not have been impaneled to hear his case. Nor does petitioner present factual allegations which, taken as true, would be sufficient to justify a finding that the trial judge could not or would not have conducted a fair trial in accordance with standards of due process under the Fourteenth Amendment.

Further, petitioner willingly provided much of the information that William Bradford Huie used as the basis for articles in *Look Magazine*. He was fully aware that Huie intended to use the materials supplied by Ray in his writings. As to the use of that information, the court doubts that Ray can now complain of its use by Huie in the *Look Magazine* articles.

But taking into account all of the articles and publicity exhibited to the court by petitioner, this court cannot find that the publicity was so prejudicial as to render a fair trial unlikely or impossible. More specifically, the court cannot conclude from the factual allegations, including the exhibits, that the publicity coerced petitioner into entering an involuntary plea of guilty.

The court will now take up the conflict of interest allegations under his third contention along with the duress and bribery allegations of the fifth contention. While it may be true that "the attorney-client contracts involved here were pregnant with a potential conflict of interest" [*Ray v. Foreman*, 441 F.2d 1266, 1270 (6th Cir. 1971), Judge Miller, dissenting], the court does not feel that such a conflict of interest, without more, would vitiate an otherwise voluntary guilty plea made in reliance upon the advice of his privately retained attorney and his court-appointed attorney. *See Dukes v. Warden*, 406 U.S. 250 (1972). It appears to the court that an attorney, subject to a conflict of interest arising from a fee

arrangement with his client, can nevertheless render effective representation. Disregarding the factually unsupported allegations,[5] it appears to the court that the essence of these allegations is that petitioner's privately retained attorney, Mr. Foreman, wrongfully coerced his plea by giving him bad legal advice.

Petitioner claims that certain contracts and royalty agreements between this privately retained attorney, himself, and author William Bradford Huie created a conflict of interest which induced his attorney to coerce the petitioner into his plea of guilty. Petitioner theorizes that the contracts and agreements would decline in value considerably if the true story of the murder and of his activities were told at a trial. If he were found innocent at the trial, his theory goes, the public would have little interest in reading about a man who did not murder Dr. King. Attorney Foreman is charged with pressuring petitioner into his plea by advising him that there was a 100 per cent chance of a guilty verdict, and a 99 per cent chance that he would receive the death penalty from a Shelby County jury. (Memorandum of Facts, p. 36, referring to Exhibit 14-A of Petition.)

Based on the overwhelming evidence against petitioner that the state purportedly possessed, considered in light of the then applicable death penalty under T.C.A. § 39-2405, the strongest urgings of counsel that petitioner plead guilty in return for a

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[5] Petitioner asserts and concludes as follows:

"Under Foreman's relentless pressure for a guilty plea, Ray's resistance to it was worn down. Ray finally came to believe and with abundant reason, that Foreman did not want to go to trial, was unprepared to go to trial, and, if forced to go to trial, would deliberately destroy Ray in the courtroom.

* * * * * * *

"When Ray came to believe this, he agreed to enter a plea of guilty." (Memorandum of Facts, p. 43, referring to Exhibit 3 of Petition, pp. 10, 11.)

sentence less severe than death should not be deemed unwise or unsound. But assuming some bad advise or error in judgment by his retained counsel, or his court-appointed counsel, and no factual allegations exist in petitioner's pleadings to support this assumption, this alone would not render his plea of guilty invalid.

A defendant, when pleading guilty,

> ". . . assumes the risk of ordinary error in either his or his attorney's assessment of the law and facts. Although he might have pleaded differently had later decided cases then been the law, he is bound by his plea and his conviction unless he can allege and prove serious derelictions on the part of counsel sufficient to show that his plea was not, after all, a knowing and intelligent act." *McMann v. Richardson* 397 U.S. 759, 774 (1970); *see also Parker v. North Carolina*, 397 U.S. 790, 797 (1970).

The factual allegations in petitioner's pleadings are insufficient to demonstrate any such "serious derelictions" or "gross error on the part of counsel when he recommended that the defendant plead guilty." *McMann v. Richardson, supra*, at 772.

The petitioner is not entitled to withdraw a plea of guilty made in reliance upon mere bad advice of counsel even though he claims that had he been correctly counseled he would have gone to trial. *Parker v. North Carolina, supra*, at 797.

"A plea of guilty is not invalid merely because entered to avoid the possibility of the death penalty." *Brady v. United States, supra*, at 755.[6]

It is quite likely that petitioner would not have entered the plea of guilty in return for a sentence of 99 years had he or his

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[6] The court is, of course, aware that the petitioner does not specifically contend that his plea of guilty was involuntarily made so as to avoid the possibility that a jury might impose the death penalty.

attorneys foreseen the subsequent voiding of the death penalty. A sentence of 99 years is presently the most severe penalty that can be exacted for the crime of first degree murder in the State of Tennessee. However, "absent misrepresentation or other impermissible conduct by state agents, . . . a voluntary plea of guilty intelligently made in the light of the then applicable law does not become vulnerable because later judicial decisions indicate that the plea rested on a faulty premise." *Id.* at 757.

In determining the issues relating to claims of denial of effective assistance of counsel, and to the voluntariness of the guilty plea, the court must do so in light of the law applicable at the time of the representation and criminal proceedings. T.C.A. § 39-2405 provides as the penalty for murder in the first degree either death, imprisonment in the state penitentiary for life, or for some period over 20 years, as the jury may determine. Of course, before and at the time petitioner pleaded guilty, this death penalty had not as yet been effectively voided by the United States Supreme Court's interpretation of the Federal Constitution in *Furman v. Georgia,* 408 U.S. 238 (1972).

Assuming as true all factual allegations in petitioner's pleadings, the court finds that the advice given to petitioner by his privately retained counsel "was within the range of competence demanded of attorneys in criminal cases." *McMann v. Richardson, supra,* at 771. The court can find no illicit coercion from the factual allegations, only reasonably competent advice and assistance.

Petitioner, in his sixth allegation, asserts that the trial judge denied him the right to discharge his privately retained attorney. He concludes that, therefore, he had no escape from the alleged illicit coercion of his privately retained counsel. Of course, the court fails to find a sufficient factual allegation of illicit coercion. In any case, the trial court did not deny petitioner the right to discharge his privately retained counsel. The

trial court did admonish petitioner that while he had "a right at any time to dispose of counsel," he must use "due diligence in procuring counsel" and must not discharge his attorney as a "delaying tactic."[7] The trial judge went on to inform petitioner that "[t]he case must be tried on the next setting unless legal grounds for continuance exist." (Exhibit 18 to Petition)

The substance of the statements of the trial judge on November 12, 1968, was that while petitioner had a right to discharge his privately retained counsel, he could not do so as a "delaying tactic" in an effort to secure another continuance. Petitioner, if he had become dissatisfied with the representation of Mr. Foreman, had the right to discharge his counsel within the above-stated confines. Further, petitioner had the benefit of the Public Defender's Office after December 18, 1968. There is absolutely no factual allegation to indicate that the public defender did not or could not effectively represent the petitioner.

The court cannot agree with petitioner's conclusory allegation that the trial judge improperly foreclosed his right to privately retain counsel. As far as the record shows, petitioner could have discharged Mr. Foreman at any time before trial, retained no other attorney, and still have had the effective assistance of the Public Defender's Office.

Petitioner's fourth allegation that his privately retained attorney's alleged plea negotiations directly with the trial judge violated his rights to due process and tended to coerce his plea of guilty is factually unsupported and vague. Further, it appears to the court to be palpably frivolous.

The court does not agree with another contention of petitioner that the trial judge failed to adequately inquire into the factual

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[7] This admonishment was delivered in response to petitioner's motion for continuance and for change of counsel, both of which the trial court granted. Petitioner does not contend that this admonishment was not legally proper and a correct statement of law.

basis of the plea and neglected to determine whether petitioner understood the nature of the charge against him. The record of the March 10, 1969, proceedings, considered alone, affirmatively reflects the constitutionally required voluntary, knowing and intelligent plea of guilty. The trial judge inquired as to whether the petitioner killed Dr. King under circumstances that make him guilty of murder in the first degree. Petitioner responded affirmatively. The trial judge carefully explained to petitioner the consequences of his plea, including the rights that he would thereby waive. The trial judge explained to petitioner his legal rights if he decided to go to trial. The petitioner, in response to questions from the trial judge, stated that no pressures of any kind had been placed upon him to get him to plead guilty, and that nothing had been promised him other than a 99-year sentence. Petitioner stated that he had been advised of all of his rights by his attorneys and that he understood his rights. In response to questions from the trial judge, the petitioner answered affirmatively that he was entering his plea voluntarily, knowingly, and with full knowledge and understanding of its meaning and consequences. (See Exhibit 5 to Answer, pp. 1-18).

While this court doubts that the Constitution requires the trial judge to always inquire as to whether the plea had a factual basis,[8] the court finds that the inquiry of the trial judge was a sufficient inquiry into the factual basis of the plea. The trial judge asked petitioner if he killed Dr. King and the petitioner responded affirmatively. The response of petitioner is in effect a statement that he committed the act which was the factual basis of the charge of murder in the first degree.

The record of the March 10, 1969, proceedings, considered alone, shows that the petitioner entered a voluntary, knowing and intelligent plea of guilty.

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[8] *See North Carolina v. Alford, supra,* in which the Supreme Court ruled that a defendant may enter a valid plea of guilty while refusing to admit his participation in the act constituting the crime.

Considering the alleged coercive influences both individually and collectively, the court finds that petitioner has presented no factual allegations which, taken as true, justify a conclusion that he did not enter a voluntary, knowing and intelligent plea of guilty to murder in the first degree. Accordingly, the court must hold that petitioner waived all nonjurisdictional defects. Petitioner was convicted and sentenced on the basis of his plea and not as a result of any nonjurisdictional defects. *See Reed v. Henderson*, 385 F.2d 995 (6th Cir. 1967). While the court considers as waived all defects raised in his petition other than the validity of his plea, the court will nevertheless consider the allegation of ineffective assistance of counsel.

Petitioner stated conclusions to the effect that his privately retained attorney and the Public Defender's Office failed to adequately investigate the case, failed to file the proper motions with the court, and, due to a conflict of interest arising from contractual fee arrangements, his privately retained attorney, Mr. Foreman, pressured the petitioner into his plea. However, "[i]f a criminal defendant is to prevail on an allegation of ineffective assistance of counsel he must demonstrate that what was done or not done by his attorney made his defense a farce and mockery of justice that would be shocking to the conscience of the court." *Matthews v. Wingo, supra*, at 3. Petitioner has not factually alleged anything to indicate that his defense was "a farce and mockery of justice that would be shocking to the conscience of the court."[9]

Petitioner's conclusory allegation that assistance of counsel was rendered ineffective by reason of constant surveillance is factually unsupported. (Petition, pp. 10, 11) There are no fac-

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[9] Petitioner admits that the Public Defender's Office had interviewed some 25 witnesses as of March 4, 1969. (Memorandum of Facts, p. 33) Further, petitioner was the beneficiary of a liberal discovery ruling by the trial judge on a motion of Arthur Hanes, Sr. (Exhibit 2 to the Answer)

tual allegations that the prosecution eavesdropped on conversations between petitioner and his attorneys. Petitioner does not factually allege that the prosecution planted agents so as to interfere in any way with the right of petitioner and his attorneys to prepare a defense in secret. Nor does petitioner factually agree that jail guards listened to any particular private conversations between him and his attorneys. There are no factual allegations that anyone informed the prosecution of the consultations between him and his attorneys. The conclusory allegation that guards overheard private communications with his attorneys, and that therefore, effective assistance of counsel was denied to petitioner, is insufficient and not factually supported. In short, petitioner fails to factually allege that he and his attorneys were unable at any time to confer and prepare the defense in secret.

To summarize this order, the factual allegations of petitioner taken as true are insufficient to justify a holding that petitioner's plea was not voluntary, knowing and intelligent. Further, the factual allegations are insufficient to justify a holding that petitioner was denied any federal constitutional right leading up to his plea. In any case, his plea being a voluntary, knowing and intelligent one, petitioner waived all the alleged nonjurisdictional defects.

Accordingly, this petition for writ of habeas corpus is hereby denied and dismissed. No evidentiary hearing is justified by the pleadings of petitioner.

L. CLURE MORTON
United States District Judge

APPENDIX C

James Earl Ray Guilty Plea

March 10, 1969

Original

Index

Witness	Examination by Mr. Dwyer
Samuel B. Kyles	19
Chauncey Eskridge	27
Jerry T. Francisco	30
N. E. Zachary	34
Paul G. Jensen	40

James Earl Ray—Guilty Plea

Monday, March 10, 1969

The Court: The calendar has been transferred to Division 1. Alright, I believe the only matter we have pending before us is the matter of James Earl Ray.

Mr. Foreman: Would your Honor give me just a minute?

The Court: Yes, sir.

Mr. Foreman: May it please the Court, in this cause, we have prepared the defendant and I have signed and Mr. Hugh Stanton, Sr. and Jr. will now sign a Petition for Waiver of Trial and

Request for Acceptance of Plea of Guilty. We have an order, I believe the Clerk has this.

The Court: This is a compromise and settlement on a plea of guilty to murder in the first degree and an agreed settlement of 99 years in the Penitentiary, is that true?

Mr. Foreman: That's the agreement, your Honor.

The Court: Is that the agreement? Alright, I'll have to voir dire Mr. Ray, James Earl Ray, stand. Have you a lawyer to explain all your rights to you and do you understand them?

A. Yes, sir.

The Court: Do you know that you have a right to a trial by jury on a charge of Murder in the First Degree against you, the punishment for Murder in the First Degree ranging from death by electrocution to any time over 20 years. The burden of proof is on the State of Tennessee to prove you guilty beyond a reasonable doubt and to a moral certainty and the decision of the jury must be unanimous, both as to guilt and punishment. In the event of a jury verdict against you, you would have the right to file a Motion for a New Trial addressed to the Trial Judge. In the event of an adverse ruling against you on your Motion for a New Trial, you would have the right to successive appeals to the Tennessee Court of Criminal Appeals and the Supreme Court of Tennessee and to file a Petition for Review by the Supreme Court of the United States. Do you understand that you have all of these rights?

A. Yes, sir.

The Court: You are entering a plea of guilty to Murder in the First Degree as charged in the Indictment and are compromising and settling your case on an agreed punishment of 99 years in the State Penitentiary. Is this what you want to do?

A. Yes, I do.

The Court: Is this what you want to do?

A. Yes, sir.

The Court: Do you understand that you are waiving, which means giving up a formal trial by your plea of guilty although the laws of this State require the prosecution to present certain evidence to a jury in all cases on pleas of guilty to Murder in the First Degree? By your plea of guilty, you are also waiving your right to one, your Motion for a New Trial; two, successive appeals to the Supreme Court, to the Tennessee Court of Criminal Appeals and the Supreme Court of Tennessee and three, Petition to Review by the Supreme Court of the United States. By your plea of guilty, you are also abandoning and waiving your objections and exceptions to all the motions and petitions in which the Court has heretofore ruled against you in whole or in part among them being one, Motion to Withdraw Plea and Quash Indictment; two, Motion to Inspect the Evidence; three, Motion to Remove Lights and Cameras from the Jail; four, Motion for Private Consultation with Attorney; five, Petition to Authorize Defendant to Take Depositions; six, Motion to Permit Conference with Huie; seven, Motion to Permit Photographs; eight, Motion to Designate Court Reporters; nine, Motion to Stipulate Testimony, ten, Suggestions of Proper Name. You are waiving or giving up all these rights. Has anything besides this sentence of 99 years in the Penitentiary been promised to you to get you to plead guilty? Has anything else been promised to you by anyone?

A. No, it has not.

The Court: Has any pressure of any kind by anyone in any way been used on you to get you to plead guilty?

A. No, no one, in any way.

The Court: Are you pleading guilty to Murder in the First Degree in this case because you killed Dr. Martin Luther King under such circumstances that it would make you legally guilty of Murder in the First Degree under the law as explained to you by your lawyers?

A. Yes, legally, yes.

The Court: Is this plea of guilty to Murder in the First Degree with an agreed punishment of 99 years in the State Penitentiary freely, voluntarily and understandingly made and entered by you?

A. Yes, sir.

The Court: Is this plea of guilty on your part the free act of your free will made with your full knowledge and understanding of its meaning and consequences?

A. Yes, sir.

The Court: You may be seated. Alright, are you ready for a jury?

Mr. Foreman: Yes, your Honor.

The Court: Alright, sir, call twelve names. Pick them one at a time out of the box and call their names.

Deputy Sheriff Gray: James W. Ballard, Gus Cariota, C-a-r-i-o-t-a, Johnny Shaw, James N. Abraham, John W. Blackwell, Amos G. Black, Jr., J. Paul Howard, Miller Williamson, Robert S. St. Pierre, P-i-e-r-r-e, James R. Pate, Joe Stovall, Jr., Richard Lee Counsellour.

Have a seat please, John W. Blackwell, James N. Abraham, Robert S. St. Pierre, Miller Williamson, J. Paul Howard, Richard Lee Counsellour, Joe Stovall, Jr., James R. Pate, Johnny Shaw, Gus Cariota, James W. Ballard.

Mr. Canale: May it please the Court and gentlemen of the jury, I will introduce myself. My name is Phil M. Canale, Jr. I am District Attorney here in Shelby County, Tennessee. This is my Executive Assistant, Mr. Robert Dwyer, my Assistant Attorney General, Mr. James Beasley. The next gentlemen is Mr. Percy Foreman who represents the defendant, James Earl Ray, Mr. Hugh Stanton, Sr., who also represents Mr. Ray, Mr. Hugh Stanton, Jr., representing Mr. Ray and James Earl Ray is

seated in the second row here behind his attorneys. Gentlemen, the case we have for consideration today is the case of the State of Tennessee against James Earl Ray who is charged by the State of Tennessee in an indictment with Murder in the First Degree growing out of a slaining on April 4, 1968 of Dr. Martin Luther King, Jr. Now, gentlemen, this defendant, Mr. James Earl Ray, has a right by law to a trial by jury. He also has a right to enter a plea of guilty if he so desires. This morning Mr. Foreman, his attorney, has announced to the Court that James Earl Ray desires to change his plea from Not Guilty to Guilty. The Court before you entered the room in here, entered the Courtroom here, has questioned the defendant, James Earl Ray, about the voluntariness of his plea and making sure that he has been explained all his rights. The Court has done that and the defendant has stated this is a voluntary plea on his part. That was done before you came into the Courtroom. Now, in such a situation as this, representing the people of the State of Tennessee, I have to make a recommendation as to punishment in the case and on a plea of guilty to the defendant for the slaining of Dr. Martin Luther King, Jr., I have recommended a sentence of 99 years in the State Penitentiary at Nashville. Now, gentlemen, can each of you sit here as jurors and we will put on some proof for your consideration, can each of you sit here as jurors and accept that plea of guilty of the defendant, James Earl Ray, and the recommended punishment which has been accepted, offered by the State and accepted by James Earl Ray, the punishment of 99 years in the State Penitentiary at Nashville? Can each of you do that?

The Court: Are you ready for the jury to be sworn?

Mr. Canale: Not just yet, your Honor. I want to make a few more remarks. It is encumbent upon the State in a plea of guilty to Murder in the First Degree to put on certain proof for your consideration. We have to put on proof of what we lawyers call proof of the corpus delecti which is the body of the crime. We will also put on several lay witnesses or police officers to

fill you in on certain important aspects of the case and then we will introduce certain physical evidence through these witnesses and Mr. Beasley, Mr. Dwyer will question these witnesses and Mr. Beasley will give you a brief stipulation of facts that the State has gotten up which contain what the State would prove by witnesses if it went to trial and you will have the benefit of all of that information through this stipulation of facts which have been agreed to by the State and by the defendant as to what the State would prove if this matter went to trial. I just want to make one more statement to you gentlemen before we proceed in this matter. There have, actually, in any case, there have been rumors going all around, perhaps some of you have heard them, that Mr. James Earl Ray was a dupe in this thing or a fall guy or a member of a conspiracy to kill Dr. Martin Luther King, Jr. I want to state to you as your Attorney General that we have no proof other than that Dr. Martin Luther King, Jr. was killed by James Earl Ray and James Earl Ray alone, not in concert with anyone else. Our office has examined over 5,000 printed pages of investigation work done by local police, by national police organizations and by international law enforcement agencies. We have examined over 300 physical bits of evidence, physical exhibits. Three men in my office, Mr. Dwyer, Mr. Beasley and Mr. John Carlisle, the Chief Investigator of the Attorney General's Office, you can't see him over here, have travelled thousands of miles all over this country and the many cities in foreign countries on this investigation, our own independent investigation and I just state to you frankly that we have no evidence that there was any conspiracy involved in this. I will state this to you further, if at any time there is evidence presented, competent evidence presented, which we can investigate and bear out, that there was a conspiracy involved in this, I assure you as your Attorney General that we will take prompt and vigorous action in searching it out and in asking that an indictment be returned if there are other people or if it should develop that other people were involved and you have my assurance on that, not only me but the local law enforcement officers

and your national law enforcement officers. I just wanted to give you that thought. Thank you very much.

Mr. Foreman: May I? It is an honor to appear in this Court for this case. I never expected or had any idea when I entered this case that I would be able to accomplish anything except perhaps save the defendant's life. All of us, all of you were as well informed as was I about the facts of this case due to the fact that we do have such an effective news media, both electronic and the press and magazines. It took me a month to convince myself of that fact which the Attorney General of these United States, J. Edgar Hoover, of the Federal Bureau of Investigation announced last July, that is, what Mr. Canale has told you, that there was not a conspiracy. I talked with my client more than 50 hours, I would estimate, and cross-examination most of that time, checking each hour and minute, each expenditure of money down to $.75 for a shave and a haircut pursuing it. I have thought through agreed recommendations in capital cases and I know from actual experience some of the questions that come to your mind as jurors and I think you are entitled to have an answer now before you are sworn as jurors. One of the things you are wondering is, if this agreement that's been made between the prosecution and the defendant, why should you be brought in here at all. Gentlemen of the jury, that goes back several hundred years in the jurisprudence of Anglo-Saxon law and it's part of the law of every State in the Union that I know about in capital cases. A capital case being a case where one of the alternate punishments is the possibility of inflicting death and the law is so concerned about not establishing charge in chamber sessions where peoples' lives will be bartered but they require what the Constitution calls a public trial and you are the public in this case and you must understand what is going on. You are the brace. But, not one of you is required to get on this jury, you have a right, any one of you who thinks that it would be contrary to your conscience to right the penalty agreed upon by the

prosecution and approved by the Court. If there is any one of you who feels for any reason you would rather be excused, I am sure his Honor will excuse you at this time before the jury is sworn and call someone to take your place. Those of us who have spent our lives in the Courtroom and in particularly in the field of what's called criminal law, we are supposed to be able to evaluate a case. This is the extreme penalty short of one step, the death penalty is by many people thought to be worse punishment than life or 99 years in the Penitentiary. I don't think there's any punishment at all in death except from the time that punishment is set until it is carried into execution. There's no punishment after then but through the fact that you have a District Attorney General who is as big as his office if not bigger, a man who is not primarily concerned with the scalps on his belt, not trying to get a glorious reputation to run for some higher office, and the fact that you have a Judge, a sincere humane and compassionate man has enabled us to do here what some of the others in celebrated trials were not able to do. There's just as a compassionate District Attorney in Los Angeles as here, just as big a man but the Judge wouldn't agree in that case and that is why that case is going on. But, here in Shelby County, Tennessee you are blessed with the judiciary and with a prosecuting attorney who are able to look at this case as well as any other case and not be swept off their feet by the backwash of publicity. There is no special consideration here, I am advised by my co-counsel, Mr. Hugh Stanton, Sr., that there has never been a time in the history of Shelby County when a plea of guilty was entered that that penalty wasn't waived. All that we have here is the same precedent, equal justice being applied as it would be if this was Joe Blow or John Doe instead of James Earl Ray. Now, with that I want to ask each of you individually just one simple question. It's in effect polling the jury in advance. Mr. Black, who is Mr. Black? Mr. Black, are you willing to effect the punishment that his Honor and General Canale and the attorneys for the defense have agreed upon in this case, 99 years?

Juror: Yes, Sir.

Mr. Foreman: Thank you. Mr. Blackwell, are you likewise willing to—is there anything in your conscience that would rebel, that righting this penalty agreed upon in this case? And, you Mr. Abraham, is that your answer also? If you are accepted as a juror in this case, you will underwrite the verdict and judgment of the Court and prosecuting attorney and defense counsel? Thank you, Mr. Abraham. You are Mr. St. Pierre?

Juror: Yes, Sir.

Mr. Foreman: I bet they haven't pronounced it right. Are you, Mr. St. Pierre, willing to subscribe to the verdict of 99 years in this case?

Juror: Yes, Sir.

Mr. Foreman: Thank you. And, you are Mr. Williamson? Is that your answer also if you are selected as a juror in this case? You will accept the penalty agreed upon and recommended by your Attorney General and by his Honor, Judge Battle?

Juror: Yes, Sir.

Mr. Foreman: And, you, Mr. Howard, will you likewise accept the penalty of 99 years if you are accepted as a juror in this case?

Juror: Yes, sir.

Mr. Foreman: Thank you. You are Mr. Counsellour. Is your answer the same as these gentlemen on the back row?

Juror: Yes.

Mr. Foreman: You will underwrite that verdict?

Juror: Yes, Sir.

Mr. Foreman: And, you, Mr. Stovall, is that your answer also?

Juror: Yes, Sir.

Mr. Foreman: Mr. Pate, would you underwrite the verdict of 99 years as agreed upon and recommended by your Attorney General and agreed to by the defense in this case?

Juror: Yes, Sir.

Mr. Foreman: And, Mr. Shaw, is that your answer also?

Juror: Yes. Sir.

Mr. Foreman: Mr. Cariota, is that your answer

Juror: Yes, Sir.

Mr. Foreman: And, you, Mr. Ballard?

Juror: Yes, Sir.

Mr. Foreman: You would. Thank you very much.

Thank you, your Honor.

The Court: Do both sides accept the jury?

Mr. Foreman: We do, your Honor.

Mr. Canale: The State does, your Honor.

James Earl Ray: Your Honor, I would like to say something. I don't want to change anything that I have said, but I just want to enter one other thing. The only thing that I have to say is that I can't agree with Mr. Clark.

Mr. Foreman: Ramsey Clark.

The Court: Mr. who?

James Earl Ray: Mr. J. Edgar Hoover, I agree with all these stipulations, and I am not trying to change anything.

The Court: You don't agree with those theories?

James Earl Ray: Mr. Canale's, Mr. Clark's, and Mr. J. Edgar Hoover's about the conspiracy. I don't want to add something on that I haven't agreed to in the past.

Mr. Foreman: I think, that what he said is that he doesn't agree that Ramsey Clark is right, or that J. Edgar Hoover is right. I didn't argue that as evidence in this case, I simply stated that under riding the statement of General Canale that they had made the same statement. You are not required to agree with it all.

The Court: You still, your answers to these questions that I asked you would still be the same? Is that correct?

James Earl Ray: Yes, sir.

The Court: There is nothing in these questions that I have asked you and your answers to them, you change none of them at all. In other words, you are pleading guilty to, and taking 99 years, I think the main question that I want to ask you is this: are you pleading guilty to Murder in the First Degree in this case because you killed Dr. Martin Luther King under such circumstances that it would make you legally guilty of Murder in the First Degree under the law as explained to you by your lawyer. Your answer is still yes? Alright, Sir, that is all, you may swear the jury.

(Jury sworn.)

The Court: Swear the officers, too.

(Officers sworn.)

Mr. Canale: Your Honor, I will read the indictment to the jurors.

The Court: Alright.

(Clerk insert copy of indictment here.)

Mr. Foreman: Gentlemen of the jury, the defendant James Earl Ray, enters a plea of guilty.

Mr. Dwyer: Call Rev. Kyles, please.

SAMUEL B. KYLES

The said witness first having been duly sworn, testified as follows:

Direct Examination, by Mr. Dwyer

Q. Will you state your name to the Court and jury, please?

A. Samuel B. Kyles.

Q. And, where do you live, sir?

A. 2215 South Parkway East, Memphis, Tennessee.

Q. Your profession is what, sir?

A. In the ministry.

Q. And what denomination do you belong to, Rev. Kyles?

A. Baptist.

Q. And, the name of your church, please, sir?

A. Monumental Baptist Church.

Q. And, where is that located?

A. 704 South Parkway East, Memphis, Tennessee.

Q. Rev. Kyles, I'll ask you if you knew a man by the name of Martin Luther King, Jr.?

A. Yes, I do.

Q. Was he a friend of yours, Rev. Kyles?

A. Yes, sir, we were personal friends.

Q. That was over a period of how many years?

A. About ten years.

Q. Rev. Kyles, I'm going to direct your attention and memory back to the date of April 4, 1968, do you recall that date, sir?

A. Yes, I do.

Q. And, around 6:00 P.M. on that date, where were you?

A. I was in the Lorraine Motel in Room 306.

Q. And, the purpose of being down there was what, Rev. Kyles?

A. I had gone to pick Dr. Martin Luther King, Jr. up to go home, go to my house at 2215 South Parkway East for a soul food dinner.

Q. And, had Dr. King agreed to go out to your home and eat dinner with you?

A. Yes.

Q. Alright, now, a few minutes prior to 6:00 P.M., Rev. Kyles, do you recall your location at that time?

A. Yes, I spent about 45 minutes in Room 306 with Dr. King.

Q. Were you engaging in conversation with him at that time, Rev. Kyles?

A. Yes, I was.

Q. Dr. King alive and in good health and in good spirits at that time and at that location?

A. Yes, he was.

Q. Alright, now, Rev. Kyles, I'm going to ask you with the Court's permission to step down from the witness stand, if you will. Will you come down here, Rev. Kyles? I'm going to show you a simulated mock-up of the section of the City, Rev. Kyles, and ask you from this if you can identify the Lorraine Motel?

A. Yes.

Q. Alright, now, Rev. Kyles, if you will step over here so these gentlemen can see. Can you give us the location on the mock-up for the benefit of the Court and jury where Dr. King's room was on that date?

A. Room 306 of the Lorraine Motel is approximately right here.

Q. That's the upper floor of that motel, is that correct?

A. That's right.

Q. And, you were in the room with Dr. King, Rev. Kyles?

A. Yes, I was.

Q. Alright, right at 6:00 P.M., did he leave the room or did you leave the room or what took place?

A. Fairly close to 6:00 P.M., we were going to—Dr. Abernathy was also in the room. Dr. King came out, I was still in the room, he came out on the balcony and was greeting some of the people who were in the courtyard and he came back in the room, I believe, to get his coat and the both of us came out together and we stood at this point on the balcony for about three minutes greeting some people wh were also going to dinner with us and we stood together there about three or four minutes. I turned to my right to walk away as I was going tc get my car and take some of the people who were going to dinner. I got approximately five or six steps away from him and I heard what I now know to be a shot and I looked over the railing. I thought it was a car backfiring or something and when I realized what had happened I turned back to my left and saw Dr. King lying in a position with a tremendous wound right side, laying in this position.

Q. Would you depict on there with your finger, Rev. Kyles, where he was lying at that time?

A. It was about at this point here. He had fallen in the cove like thing with his feet against the railing and lying in a pool of blood.

Q. Rev., did you notice a gaping wound, did you say about his face?

A. Yes, this much of his face that I could see and I also noticed the shot had cut his necktie, cut it right off. I remember that because he had been trying to find out, he thought somebody was playing a trick in the room and he couldn't find his necktie and he did finally find it and we had had some conversation about his necktie.

Q. Alright, at that time, did Dr. King say anything to you, Rev. Kyles?

A. You mean while lying there?

Q. Lying there?

A. No, he didn't speak a word.

Q. Alright, now, what did you do then, Rev.?

A. I immediately came to him and when I saw this wound to his face I ran in the room and picked up the phone to try to get an ambulance and I didn't have any success because I think the operator had left. She must have heard the shot and come out. So, I came back out and looked over the rail and I hollered for somebody, the police, I believe, to call an ambulance but they had already called one and then I went back in the room and took the spread off the bed and covered him as he was lying there.

Q. Did you go to the hospital with Dr. King, Rev. Kyles?

A. No, I did not. I remained at the Lorraine to handle the phone. We were trying to get in touch with Atlanta, to Mrs. King.

Q. Alright, Rev. Kyles, while you were out on the balcony and heard the shot, did you look over towards the rooming house?

A. Yes, I did. I heard people, I think they were the police, asking which way the shot came from and there were some people pointing there and we all looked in that direction.

Q. Now, I'll ask you to point on the mock-up here, and ask you, the back of the rooming house, Rev. Kyles, if you will, do you see the area over there?

A. Here?

Q. Yes.

A. Yes.

Q. Did you look in that area?

A. Yes, I looked over there. There were bushes, it wasn't clear.

Q. I'm going to hand you a photograph and ask you, Rev., if this depicts the photograph of the scene and the area as it was when you looked over there?

A. It does.

Q. Alright, now, I'll ask you, Rev. Kyles, did you see anybody moving about over there?

A. No, I didn't.

Q. Alright, come on back, if you will, Rev. I'm going to show you another picture, Rev. Kyles, and ask you if you can identify it for me, please?

A. Yes, this is a scene looking north on Mulberry Street right in front of the Lorraine Motel, or right on the parking lot area.

Q. As I ask you, the area back of the rooming house, did you look over in that area, Rev. Kyles?

A. Yes, I did.

Q. Did you see anybody moving about over there?

A. No, at the point I looked I could see the officers coming towards the motel, yes.

Q. Alright, now, Rev. Kyles, did you attend the funeral of Dr. Martin Luther King, Jr.?

A. Yes, I did, in Atlanta, Georgia.

Q. I'm going to hand you a photograph, Rev. Kyles, and ask you if you can identify it, please?

A. Yes, that is a photograph of Dr. King.

Q. Does that depict the wound that you saw on his face when you saw him on April 4, 1968?

A. Yes, it does.

Q. If the Court pleases, I would like to have these photographs passed to the jury for their consideration.

The Court: Have they been marked?

Q. We are going to make them all a composite.

The Court: Oh, you are going to make a composite exhibit. Alright, sir.

Q. Rev. Kyles, what you have testified to, did it happen in Memphis, Shelby County, Tennessee prior to May 7, 1968?

A. Yes, it did.

Q. That's all, you may step down, Rev. Kyles. Thank you very much. Chauncey Eskridge, Mr. Gray.

CHAUNCEY ESKRIDGE

The said witness first having been duly sworn, testified as follows:

Direct Examination, by Mr. Dwyer

Q. Will you state your name to this Court and jury, please, sir?

A. My name is Chauncey Eskridge, E-s-k-r-i-d-g-e.

Q. And, where do you live, Mr. Eskridge?

A. Chicago, Illinois.

Q. And, your profession is what, Sir?

A. I am an Attorney at Law.

Q. Mr. Eskridge, I'm going to direct your attention and your memory back to April 4, 1968, do you recall that date, sir?

A. I do.

Q. And, on that date, do you recall where you were?

A. In Memphis, Tennessee.

Q. Around 6:00 P.M. on that date, do you recall where you were?

A. I do.

Q. And, where was that?

A. At the Lorraine Motel.

Q. And, your purpose for being there was what?

A. Visiting with Dr. King. I was his lawyer.

Q. You represented Dr. King?

A. Yes.

Q. Now, Mr. Eskridge, I'm going to ask you to come down, if you will, please, Sir, and let me show you a mock-up. Around 6:00 P.M., on that date, where were you located, sir?

A. I was standing in the portway looking up at the door at 306, Room 306 that would have been about here.

Q. Alright, Sir, now, at that time, were you engaging Dr. King in conversation or anything like that, Mr. Eskridge?

A. At 6:00 he came out of the room. I was awaiting him to go to dinner. I was by the car. The driver of the car was standing in front of me. We were both on the left hand side of the car. The Rev. Andrew Young was on the right hand side of the car and any moment we were expecting Dr. King to come from the room. He opened the door and came out one time and he said, "Tell Jesse we are ready to go." He went back in and a few minutes later he came out putting his coat on and as he put his coat on and put his hands on the rail and leaned over the rail and said, "OK, start the car." Whereupon the sound came from my right ear, zing and I looked to my left rear to see what it was and I turned back and looked and he was down.

Q. When you turned to your left, did you look back over towards the rooming house there?

A. I did.

Q. Did you see anybody moving about over there at that time?

A. I did not.

Q. Alright, now, when you turned back, you saw Dr. King, he was down on the balcony, is that right?

A. That's right.

Q. Did you go to the hospital with Dr. King?

A. I did.

Q. And, at that time, were you informed that he was dead?

A. I was.

Q. Did you attend his funeral, Mr. Eskridge?

A. I did.

Q. And, that funeral took place where?

A. In Atlanta, Georgia.

Q. You may return to the stand. You may step down, thank you very much. Dr. Francisco, Mr. Gray.

JERRY THOMAS FRANCISCO

The said witness first having been duly sworn, testified as follows:

Direct Examination, by Mr. Dwyer

Q. State your name to the Court and jury, please, sir.

A. Jerry Thomas Francisco.

Q. And, your profession is what, sir?

A. Physician.

Q. You are licensed to practice in the State of Tennessee, Dr. Francisco?

A. Yes.

Q. Dr. Francisco, I'll ask you if you hold a position in our County Government here?

A. Yes.

Q. And, that position is what, sir?

A. County Medical Examiner for Shelby County.

Q. What field of medicine do you specialize in, Dr. Francisco?

A. The field of Pathology and Forensic Pathology.

Q. Pathology is basically what?

A. Pathology in its simplest terms is defined as a study of diseases, that branch of medicine that concerns itself with the causes of diseases, the effects of diseases upon the body including trauma, injuries to the body.

Q. Dr. Francisco, I'll ask you if you were acting in that capacity as County Medical Examiner on April 4, 1968?

A. Yes.

Q. I'll ask you around 8:47 P.M. on that date, do you recall where you were?

A. Yes.

Q. And, will you tell us?

A. In the Medical Examiner Laboratory at the University of Tennessee.

Q. I'll ask you at that time if you had an occasion to view a dead body, Dr. Francisco?

A. Yes.

Q. I'll show you a photograph that has been shown as an exhibit in this case and ask you if that is the body that you saw at that time at that location?

A. Yes.

Q. Dr. Francisco, I'll ask you what if anything did you do in relation to that body?

A. An autopsy was performed.

Q. And, an autopsy is what?

A. An autopsy is a scientific and systematic examination of the body after death in order to determine any wounds, injuries or diseases present on the body.

Q. Can you tell us what your examination reflected, Dr. Francisco?

A. The examination revealed a gunshot wound to the right side of the face passing through the jaw into the neck through the spinal cord at the base of the neck with the bullet lodging beneath the skin near the shoulder blade on the left.

Q. The cause of death was what, Dr. Francisco?

A. The gunshot wound to the cervical and thoracic spinal cord.

Q. In your medical opinion, how soon did death occur?

A. Shortly after injury.

Q. Did you recover anything from the body, Dr. Francisco?

A. Yes.

Q. I'm going to show you an object and ask you if you can identify those, Dr. Francisco?

A. Yes.

Q. And, what is that, please?

A. This is the bullet that was removed from the body at the time of autopsy.

Q. What if anything did you do with that bullet, Dr. Francisco?

A. This bullet was identified by number and delivered to a representative of the police department.

Q. Dr. Francisco, pursuant to the—first, let me ask you, would you give me an angle or the gentlemen of the jury an angle of that wound, Doctor, say on your own body, if you would, please?

A. The angle was from above downward from right to left passing through the chin, base of the neck, spinal cord to the back. The angle of something about like this.

Q. Pursuant to our instructions, Dr. Francisco, did you visit the scene?

A. Yes.

Q. And, did you make certain tests out there or observations at the scene?

A. Yes.

Q. Dr. Francisco, I'll ask you if you will step down, please, sir. The test, Dr. Francisco, were what, please, sir?

A. The tests included a going to the floor of the motel and going to the room over here, from this point in the room to this location on the motel balcony and the viewing from the back of the room in this area adjacent to the motel.

Q. In other words, Doctor, you were angling from the room in the rooming house to the balcony, is that correct?

A. That's correct.

Q. And, then angling from the back on the ground of the rooming house to the balcony, is that correct?

A. That's correct.

Q. Which one was consistent with the angle of the wound, Dr. Francisco?

A. The location of the window.

Q. Thank you, Dr. Francisco, you may come down. Inspector Zachary.

N. E. ZACHARY

The said witness first having been duly sworn, testified as follows:

Direct Examination, by Mr. Dwyer

Q. Would you state your name to the Court and jury, please, sir?

A. N. E. Zachary.

Q. By whom are you employed, sir?

A. Memphis Police Department.

Q. How long have you been with the department?

A. Almost 22 years.

Q. Do you have a rank or rating with the department?

A. Inspector of Police.

Q. Inspector Zachary, I'll ask you if you were employed by the Memphis Police Department on April 4, 1968?

A. I was.

Q. You were in what capacity on that date with the department?

A. Inspector in charge of the Homicide Bureau.

Q. Inspector, I'll ask you if you recall the hour of 6:00 P.M. on that date?

A. I do, Sir.

Q. And, your location at that time?

A. I was at police headquarters at that time.

Q. Inspector, what if anything occurred?

A. I heard a broadcast on the radio that Dr. Martin Luther King had been shot at the Lorraine Motel.

Q. What did you do?

A. I immediately went to the Lorraine Motel.

Q. And, when you got down there, did you or were you the Commanding Officer in charge of the scene at that time, Inspector?

A. I was.

Q. Did you issue certain instructions and have photographs and things of that kind, Inspector?

A. I did.

Q. Detailed men to start making the investigation of that area, is that correct, Inspector?

A. I did, yes, Sir.

Q. Inspector, I'm going to ask you if you went up to Main Street at that time?

A. I did.

Q. And, will you step down, please, Sir. In regard to Main Street on the mock-up, Inspector, did you find anything up there, in particular in front of Canipe Amusement Co.?

A. I did.

Q. Would you point that out and let these gentlemen of the jury see?

A. Right here.

Q. Alright, Inspector, what if anything did you find there?

A. I found a package or rolled up in a bedspread that consisted of a briefcase and a brown pasteboard box at about this location.

Q. I'm going to show you a photograph and ask you if that reflects the package that you found on that evening, Inspector?

A. It does, yes, Sir.

Q. What if anything did you have caused or done to the package?

A. At this particular time we put a guard on it with instructions that no one was to touch it or move it.

Q. Did you later take this package or bundle as you might refer to it to headquarters?

A. I did, yes, Sir.

Q. Alright, Inspector, if you will come back over here, please. I'm going to show you a spread, Inspector, and ask you if that is the spread that was wrapped around the package?

A. Yes, Sir, it is.

Q. I'll show you a box, Inspector, and ask you if that was in the bundle there?

A. Yes, Sir.

Q. I'll show you a rifle, Inspector, and ask you if that was in the box?

A. It was, yes, Sir.

Q. I'll show you a plastic zipper bag and ask you if that was in the bundle, Inspector?

A. It was, yes, Sir.

Q. You took these objects up to headquarters, Inspector Zachary?

A. I did.

Q. Did you go into the zipper bag at headquarters?

A. I did, yes, Sir, by using a coat hanger to unzip it.

Q. I'm going to ask you if you found a binocular case in there, Inspector Zachary?

A. Yes, Sir.

Q. And a couple of cans of beer, did you find those in there?

A. I did.

Q. Shaving kit?

A. Yes, Sir.

Q. I'll show you a garment that's wrapped up, I believe that's a T-shirt, Inspector Zachary?

A. Yes, Sir.

Q. A pair of undershorts?

A. Yes, Sir.

Q. A pair of binoculars?

A. Yes, Sir.

Q. A pasteboard box that looks like binoculars came in?

A. Yes, Sir.

Q. Was that in there, Inspector?

A. Yes, Sir.

Q. A hairbrush?

A. Yes, Sir.

Q. And, a transistor radio, was that in there, Inspector?

A. Yes, Sir, it was.

Q. A pair of pliers and a hammer?

A. Yes, Sir.

Q. A paper bag, was that in the bundle, Inspector, in the plastic bag?

A. Yes, Sir.

Q. There's a newspaper, Commercial-Appeal, Inspector Zachary, was that in there?

A. Yes, Sir.

Q. Inspector, what did you do with the plastic zipper bag at headquarters?

A. I turned it and the contents with exception of the T-shirt and the shorts over to the FBI sometime around 10:00 P.M. that night.

Q. Was that up there in your office, Inspector?

A. Yes, Sir.

Q. And, do you recall, was Mr. Jensen of the Memphis FBI there?

A. He was, yes, Sir.

Q. And, those objects were turned over to him, is that correct?

A. Yes, Sir.

Q. The cartridges, Inspector, were they in the zipper bag?

A. No, Sir, I believe they were in the pasteboard bag with the rifle.

Q. With the rifle?

A. Yes, Sir.

Q. The purpose of turning these objects that you have identified here over to the FBI was to be sent to Washington for its examination, Inspector Zachary?

A. That's correct, yes, Sir.

Q. You may come down, Inspector Zachary, thank you very much. Robert Jensen, Mr. Gray.

ROBERT G. JENSEN,
the said witness first having been duly sworn, testified as follows:

Direct Examination, by Mr. Dwyer

Q. Would you state your name to the Court and Jury, please, sir?

A. I am Robert G. Jensen.

Q. And, by whom are you employed, sir?

A. By the FBI.

Q. And, you are stationed where?

A. In Memphis.

Q. Mr. Jensen, how long have you been with the Federal Bureau of Investigation?

A. It will be 22 years in April.

Q. What position were you in in the Memphis area on April 4, 1968?

A. I am Special Agent in charge of the Memphis Division.

Q. I'll ask you around 6:05 P.M. on that date, do you recall where you were, Mr. Jensen?

A. Yes, sir, I was in the office of the FBI.

Q. And, did you receive a call at that time?

A. I did.

Q. And, as a result of the call, what if anything did you do, Mr. Jensen?

A. I called my Washington Headquarters to advise them of the information which I had received and subsequently dispatched men to assist in the investigation.

Q. Alright, now, Mr. Jensen, you dispatched your agents to enter into this investigation at what time on that date, did you say, sir?

A. Probably around 6:30.

Q. Alright, now, Mr. Jensen, I'll ask you if you recall where you were at 10:00 P.M. on that date?

A. Yes, sir, I was in the Memphis Police Department.

Q. And, I'll ask you if anything was turned over to you in your official capacity on that date at that time by the Memphis Police Department?

A. Yes, certain evidence was turned over to me that night.

Q. I'm going to ask you, Mr. Jensen, to look, there's a green spread here, pair of pliers and a hammer, a rifle, some shaving articles, binoculars, beer cans, newspaper, T-shirt, shorts, transistor radio, I'll ask you if those properties were turned over to you by Inspector Zachary of the Memphis Police Department?

A. Yes, they were.

Q. And, the purpose of that was what?

A. In order that I could send them to our laboratory for examination.

Q. And, did you do that?

A. Yes, I did.

Q. And, can you tell us briefly how that was done?

A. Yes, the evidence was taken over to my office, was personally wrapped under my supervision and when all the material was wrapped, I dispatched an agent to Washington to physically carry the material to the laboratory.

Q. Alright, now, Mr. Jensen, you continued to make an investigation in your capacity in this killing of Dr. Martin King?

A. Yes, we did.

Q. And, I'll ask you on the next day, April 5, 1968, if you instructed your men to make a canvass of the hotels and motels in Shelby County?

A. Yes, I did.

Q. As a result of that, was any evidence uncovered?

A. Yes, sir, we found a registration card at the Rebel Motel.

Q. The name on that registration card was what?

A. Eric S. Galt.

Q. Did you find that Eric S. Galt was driving a Mustang, white Mustang automobile?

A. Yes, sir.

Q. Alright, now, Mr. Jensen, I guess you were coordinating the FBI's part of the investigation, is that correct, sir?

A. Yes, sir.

Q. And, in regard to the rifle, did that direct the FBI to any area in our country?

A. Yes, sir, it did.

Q. And, to where?

A. First to the manufacturer and we determined based on the numbers appearing on the rifle that it had been sent to a distributor in Birmingham, Alabama and subsequently sold at the Aero Marine Supply Company.

Q. Were you looking for Eric S. Galt in Birmingham, Alabama at that time?

A. Yes, sir.

Q. Alright, now, Mr. Jensen, I'll ask you if your investigation led you to Atlanta, Georgia?

A. Yes, it did.

Q. Was the Mustang automobile recovered there?

A. Yes, it was. It was recovered on the 11th of April.

Q. After the automobile was recovered, Mr. Jensen, did you find pictures on it to indicate that it had been in Mexico?

A. Yes, it was, there were stickers on it.

Q. In your investigation by the Federal Bureau of Investigation extend into Mexico?

A. It did.

Q. Now, I'm going to ask you, Mr. Jensen, the pliers and the hammer that were shown to Inspector Zachary and to you, did that lead the FBI to any area in our country?

A. It led us to Los Angeles, California.

Q. Did you find where they had been sold out there?

A. We found a hardware store that maintained comparable items, yes, sir.

Q. And, the name of that, if you can recall?

A. Ramage, R-a-m-a-g-e, to the best of my recollection.

Q. The T-shirt and shorts, did that lead the FBI to any area in our country?

A. Yes, sir, the west coast.

Q. And, did you find where the laundry marks originated?

A. Yes, sir, also in Los Angeles.

Q. Did the FBI's investigation extend into Canada, Mr. Jensen?

A. Yes, sir.

Q. Did the FBI's investigation extend into Portugal and to England?

A. Yes, sir, it did.

Q. Did the investigation made by the FBI culminate in the arrest of James Earl Ray?

A. Yes, it did.

Q. That's all, thank you very much. You may come down. That's all the proof the State has to offer at this time except for the stipulations by Mr. Beasley.

The Court: Is it a pretty lengthy stipulation?

Mr. Beasley: Yes, sir.

The Court: Well, I think we've been going about an hour and 15 minutes, maybe we better have a short recess.

(Recess.)

The Court: Are you ready for the jury?

Mr. Beasley: We are ready for the jury.

The Court: Alright, bring in the jury. Alright, Sir, you may proceed.

Mr. Beasley: May it please the Court and gentlemen of the Jury, I propose at this time to narrate to you gentlemen a stipulation of the facts and evidence that the State would prove in addition to the testimony heretofore heard in the trial of that cause. Gentlemen, if you will look in this direction, this is an enlargement of this area that is reflected on the overall mock-up here. This specifically is the rooming house designated as 422½ South Main, the upper floor. We have removed the roof, so you can see the various rooms that are reflected in this mock-up. The State would show in the course of its proof, gentlemen of the Jury, that Mrs. Bessie Brewer, who was employed as manager of this rooming house, that on the afternoon of April the 4th, between 3 and 3:30 PM in the afternoon, the defendant appeared here at Mrs. Brewer's office or the apartment that was used as the office of this rooming house. Under the name of John Willard, he rented a room for a week. Mrs. Brewer showed him Room 8, which is on the south side of the rooming house. This room was not satisfactory. There was some statement with reference to not needing a refrigerator, and stove. The request for a single sleeping room, Mrs. Brewer took him around this passageway. As you will note, there is a division between these two buildings, base in between, which is enclosed out here. There is a passageway that leads over to the north side of 422½ South Main. You see here the room and this is a little corridor leading down by the room. He

was taken to Room 5B, which is located in this section. The defendant did rent this room for about a week from Mrs. Brewer. The State's proof will then show that approximately 4 PM, the defendant appeared at the York Arms Company, which is located one mile north of this rooming house, one half mile north of this rooming house on Main Street here in Memphis. At that time, he purchased from Mr. Ralph Carpenter, binoculars, that have heretofore been shown in evidence. They were in a case. That case was likewise shown in evidence and a box, on which the price was recorded of the binoculars. They were placed in a sack by Mr. Carpenter after collecting some $41.55 including tax from the defendant. Gentlemen, coming back to the overall mock-up, the State's proof would show that between 4:30 and 4:45 PM, Mrs. Elizabeth Copeland, who worked across the street from this area designated as Canipe Amusement Company, observed a small white automobile pull up and park in this general area as designated by the smaller car here on the mock-up, to the north of this light pole and to the south here of Canipe Amusement Company. Mrs. Copeland told a Mrs. Peggy Hurley, "Peggy, your husband is here for you." Mrs. Hurley came to the window and looked out, she said, "No, that's not my husband. My car is a Falcon, a white Falcon and this is a white Mustang." She did note a man sitting in the car. Shortly thereafter, Mrs. Hurley's husband arrived, she got in the car and left. When Mrs. Copeland left her place of employment, was picked up by her husband at approximately 5:20 PM, the car was still there and there was no one in the car at that time. In the meantime, back upstairs in 422½ South Main, Charles Quitman Stephens, who occupied these two rooms adjacent to a bathroom here, Mr. Stephens earlier in the afternoon had observed Mrs. Brewer as she talked to the defendant for the purpose of renting the room. Mr. Stephens was working on a radio adjacent to this wall right here. He heard movements over in the Apartment 5B, rented to the defendant. Movements of his furniture being moved and he also heard footsteps from this area into the

bathroom. During this period of time, Mr. William Anchues, who lived in this apartment, had on several occasions had gone and attempted the door to the bathroom and had even questioned Mr. Stephens about who was in the bathroom. At approximately 6 PM, Mr. Stephens heard a shot coming apparently through this wall in the bathroom. He then got up and went through this room, out into the corridor in time to see the left profile of the defendant as he turned down this passageway, which leads to an opening with a stairway going down to Main Street. Now, gentlemen, you can see here this mock-up, this off-set area here is in front of Canipe Amusement Company. It is reflected here on this mock-up at this point. Mr. Guy Warren Canipe along with two customers, Bernell Finley and Julius Graham, were in Canipe's Amusement Company, when they heard a thud in the area immediately here and up in this little off-set and looking out, saw the back of a white man going away from that area in a general southern direction on down Main Street. Observing momentarily thereafter, a white Mustang pulled from the curb heading north on Main Street, one occupant. This packet was subsequently guarded and found to be the rifle, the box, the suitcase wrapped in a green spread and so forth that has heretofore been introduced to you gentlemen through some of the witnesses. Various officers from attack units, which consisted of three cars had come in at approximately five minutes before 6 PM to utilize the facilities of the Bulter Fire Station as pictured here, for a short break, having worked all day. This consisted of three squad cars. These cars had pulled in, parked, with the foremost car up—extended out here toward the sidewalk. This would be to the south of the rooming house. These officers being in the assembly room area, some in the restrooms and so forth, upon hearing the shot, there the officers would testify as coming out the rear door here coming over into this area, jumping down some ten foot wall here and proceeding over toward the hotel, where they could observe the body lying there as it has been heretofore described to you. Some of these officers went back

up into this area particularly Patrolman Landers, climbed the scale of this wall and went back up into this area to check this area. Other officers proceeded on down to the next intersecting street, back and come south—running south on Main Street. As it has been testified to, a guard was placed on the package of evidence in this area and was subsequently turned over to Mr. Jensen of the FBI, who delivered it to one of his agents who carried it to Washington. Upon the officers, the Memphis Police Department reaching the scene and going up into the area, talking with Mrs. Brewer, Mr. Anchues, Mr. Stephens, they entered Room 5B. The testimony would show, gentlemen, that there had been a chest of drawers sitting by a window located on the south side of this apartment. This chest of drawers had been moved from the time Mrs. Brewer rented the apartment. There was a straight chair sitting in that location. You could sit in this chair and could look from the window and could see the Lorraine Motel. In a rather awkward position you would have to get into to look out there. In the officers entering this room, they found two leather strapes. One lying upon the couch in the room and one lying upon the floor, which was subsequently determined to be the strape, which would fit the case and the binoculars that were found down in front of Canipe's Amusement Company. There were certain items taken from this room by the officers such as a pillow, the coverings on the bed for subsequent comparison and I'll touch on those briefly with you in a few minutes. The proof would show, gentlemen, that the Homicide officers coming into this area of the bathroom, inspecting the bathtub here, found marks in the bottom of the tub consistent with shoe or scuff marks. The window, which is in line as it will indicate here, this is the window that is reflected here with the Lorraine Motel, was open at the bottom, from the bottom. The screen was pushed off and was found down in this area here. The sill of this window in the bathroom was observed by Inspector Zachary to have what appeared to be a fresh indentation in it. This sill was ordered removed, was cut away and was

subsequently sent to the FBI for comparison and the proof would show through expert testimony that the markings on this sill were consistent with the machine markings as reflected on the barrel of the 30 aught 6 rifle which has heretofore been introduced to you. In an effort to identify any and all white Mustangs in the area of Memphis on that night, an extensive investigation was made including to the Rebel Motel, where a registration card reflected one Eric S. Galt had registered there at approximately 7:15 PM on the evening of April the 3rd. He was driving a Mustang bearing Alabama license, 1-38993, with an address, 2608 South Highland, Birmingham, Alabama. Proof would further show that Mr. Ivan Webb, who was the night manager of this Rebel Motel, observed this particular car parked there during the night. He observed the Mexican stickers on this car, also verified the license number. After having traced the rifle through the manufacturer to Birmingham, the State would show through Mr. U. L. Baker, of Aero Marine, a sporting goods place located in Birmingham, that on Friday, March the 29, he sold a .243 caliber Winchester rifle, which is a little smaller caliber than this 30 aught 6, to the defendant under the name of Harvey Lowmeyer, with an address in Birmingham that is similar to this 2608 South Highland. There proved to be no one by that name living at that address. Captain John DeShazo would be brought from his duty station in Japan to testify as to his being present and observing the purchase of this rifle along with a Redfield scope, which was mounted on the rifle by Mr. Baker at that time. Mr. Donald F. Wood of the Aero Marine Supply Company would be called to testify that later in the evening or the afternoon of March the 29th, he received a phone call from the person identified as Harvey Lowmeyer, with reference to exchange the rifle, the .243 caliber for a 30 aught 6 caliber. Mr. Wood gave directions with reference to bringing the gun in on 9:00 on Saturday morning, which would have been Saturday morning and that was done. He changed the scope from the .243 to the .30 aught 6 and at 3:00 that afternoon, he delivered the .30 aught 6,

which is the same rifle that has been identified here in the Courtroom to the defendant along—he didn't have a box with a scope on it. The regular Remington box wouldn't fit and that's the reason for the Bryan Automatic Shotgun box being used to deliver this rifle in. The proof would show in the investigation in the Birmingham area that the license on this vehicle, that this vehicle, the Mustang was formerly owned by Mr. William D. Paisley. Mr. Paisley will be called to testify with reference to having sold this Mustang for $1,995.00 on August 30, 1967 to Eric S. Galt, after having running an ad in the Birmingham newspaper with reference to the car. At the time Mr. Paisley delivered this car and received the money, there was some conversation with reference of not having driver's license and he cautioned this person, the defendant identified as Eric Galt about this and was told that he would take—he must have a license to drive it, so he says, "I'll take the fellow's at the rooming house." The investigation would move over to 2608 South Highland, Birmingham, Alabama. Mr. Peter Cherpes will be called to testify as the manager of that place. He rented a room to Eric Galt on August 26, 1967, for $22.50 a week including breakfast and supper and proof would further show that Mr. Cherpes did accompany Galt to obtain his driver's license, the driver's license record, which we would introduce in the cause of this case, would reflect the driver's license of Mr. Cherpes on the application, which was signed with a full name, Eric Starvo Galt. The State would show through these records also that the 1967 license number, which was assigned to Mr. Paisley, was transferred to Eric S. Galt and subsequently on October the 2nd, the new license number was obtained, 1968 license 1-38993 by the defendant as Eric S. Galt. The State's proof would further show that the defendant left the Birmingham vicinity on or about October the 5th and he entered Mexico on October the 7th. He remained there in Mexico until approximately the middle of November, 1967. The State's proof would then pick the defendant up using the name Eric S. Galt when he appeared in Los Angeles, California

at an address 1535 North Sornia and rented an apartment from Mrs. Margarita Powers, who will be brought in to testify with reference to this. Also from Los Angeles, the State would call Miss Marie Martin, who will testify that she met the defendant under the name Galt while she was working at the Sultan Room there in Los Angeles. And, pursuant to having met Mr. Galt, getting acquainted with him, that she later introduced him to her cousin, one Rita Stein and to Rita Stein and her two children in New Orleans, Louisiana. As a result of this friendship between Miss Martin and having met Rita Stein and also her brother, Charles Stein, it was agreed on the 15th of December that the defendant, driving his Mustang, would take and he did take Charles Stein to New Orleans, Louisiana. The State proof would introduce the record through the manager of the Provincial Motel would show that the defendant as Eric Galt, 2608 South Highland, Birmingham, Alabama, driving a Mustang, did register and stay in Room 126 on December the 17th and checked out on December the 19th. At that time, the proof will show that along with Charles Stein and his two children and Rita Stein, the defendant proceeded back to Los Angeles. The State will show through Mrs. Mary Lucy Pinela, the manager of the Homes Service Laundry Company, located at 5280 Hollywood Blvd., that the defendant as Eric Galt, was a customer of her laundry during the period of December 1967 until early March 1968. She would identify laundry markings that reflected on the shorts and undershirts dropped in front of the light as being laundry marks she had placed on these two particular garments while the defendant was there as a customer. Mr. Arvidson, Rodney Arvidson, who operated the dance studio at Long Beach, California, would testify with reference to knowing the defendant as Eric S. Galt, during the period of December the 5th and February the 12th, while Mr. Galt was taking dancing lessons at his place of business. Through the testimony of Mr. Thomas Reyes Lau, the State would show that under the name of Eric S. Galt, enrolled in the International School of Bartending, there in Los Angeles

and he attended this school from January the 19th until March the 2nd, when he graduated. We were able to obtain a photograph in color reflecting the graduation picture from Mr. Lau, which you will see Eric S. Galt, the defendant, along with Mr. Lau, as you gentlemen view the picture, to the defendant's left and he is holding the diploma in front of him with the name Eric S. Galt. Dr. Russel C. Hadley of Hollywood, California, would be called by the State to testify that in his capacity as a plastic surgeon, he did perform an operation on the nose of the defendant under the name of Eric Galt on March 5, 1968. We would show that on March the 17th of 1968, the defendant, using the name Eric S. Galt, executed a change of address card from the St. Francis Hotel, where he moved to from 1535 North Sornia, showing the new address to be general delivery, Atlanta, Georgia. That in route from Los Angeles back east across the country, the defendant did deliver certain items of clothing and some books or a carton of personal belongings to the daughter of Marie Martin, who was residing in New Orleans, Louisiana. Further tracing the defendant, still as Eric S. Galt, he spent the night of March the 22nd at the Flamingo Motel located at Selma, Alabama. We show through Mr. Jimmy Garner, who operates a rooming house in Atlanta, Georgia, that he rented a room to the defendant under the name of Eric S. Galt on March 24, 1968. That he collected a week's rent and subsequently on March the 31st, collected the second week's rent from the defendant as Eric S. Galt. At the time of the collecting of the rent on March the 31st, that the defendant did write his name out as Eric S. Galt on an envelope and this envelope was subsequently turned in in the course of this investigation. That on the morning of April the 5th, Mr. Garner went into the room that had been rented to the defendant as Eric Galt and for purpose of changing the linens and at that time, he found a note in substance saying, "I have to go to Birmingham. I'll be back later or within about a week to pick up my television set and my other articles." That on April 14, 1968, some ten days after the murder in Memphis, Mr. Garner

did give permission to the members of the Atlanta FBI office to make a search of the premises there at his rooming house, in which the room had subsequently been rented to the defendant. Mrs. Annie Peters will be called by the State to testify with reference to the operation of the Piedmont Laundry, which is located around the corner from Jimmy Garner's rooming house. That on April the 1st, the defendant as Eric S. Galt, left certain laundry and cleaning there. That on the morning of April the 5th, 1968, and around mid-morning, he returned and picked up this laundry and dry cleaning. The State would then show that on the morning of April the 5th, 1968, several people who lived in the Capital Homes Apartment Project, located in Atlanta, Georgia, including among them a Mrs. Lucy Cayton, who will be called as a State's witness, observed this white Mustang pull into this parking area of the Capital Homes, back in and the man leave this Mustang, a white man. The State will show that this car stayed in this location from approximately between 8:15, 8:30 AM somewhere in that area, on the morning of April the 5th until April the 11th. When as a result of several of the people in the neighborhood talking about the car, the pastor of the people was called to the scene and subsequently called the Atlanta Police and we would show through Roy Lee Davis of the Auto Theft Division of the Atlanta Police, that he was dispatched to the scene. He did observe this 1966 Mustang, bearing license number, 1-38993. In the course of seeking to check out whether or not this was a stolen car, of course following the customary police procedure, the information on this car was picked up and of course he was the car being sought in reference to the investigation here in Memphis and subsequently the car was taken into custody by the officers of the Federal Bureau of Investigation and the officers in checking this car out, observed several items in the trunk, which proved to be significant. Specifically and without taking the time to bring these all out, however we do have them here, a dark blue short sleeve shirt, there was two bed sheets in the trunk of the car and pillow cases, gloves from the trunk

was taken, along with a pillow, sweepings were made of the floor mats all through the car. There was a styrofoam case, which was determined to be a styrofoam case in which, the type styrofoam case in which a Polaroid 220 camera is packaged and shipped and sold in. Also the 1967 license number tag which was in the car. This was the same tag that had been registered to Mr. Paisley and was transferred in early September to the defendant as Eric S. Galt and of course bearing the 1968 Alabama license, 7-38993. The officers of the bureau there, who made the search of the room rented by Jimmy Garner, would testify with reference to the number of maps that were found, including maps of Atlanta, maps of Texas and Oklahoma, maps of Louisiana, maps of California, maps of Arizona and New Mexico, maps of Birmingham and also a map of Mexico. That these items, these maps along with the handwritten name of Eric S. Galt was delivered over to the laboratory and will be touched upon in just a moment. The State's proof would then shift to Toronto, Canada, where we would show through Mrs. Adam Szpakowski, that on April 8, 1968, the defendant appeared at her home, which she had rooms to rent there at 102 Ossington West in Toronto, Canada. That the defendant rented a room under the name of Paul Bridgman. That after the defendant had moved from her establishment, she received a letter from the Office of Registrar General, which handles among other things birth certificate application, addressed to Paul Bridgman and this was returned unclaimed. Mrs. Mabel Agnew, who operates the photographic studio there in Toronto, Canada, would testify that on April 11, 1968, she took actual photographs of the defendant under the name of Paul Bridgman. A copy of those photographs would be introduced, of course into evidence. Mrs. Lillian Spencer of the Kennedy Travel Bureau, which is located in Toronto, Canada, would testify that the defendant using the name Ramon George Sneyd did contact her on April the 16th. Made application for a Canadian passport and took a package to London on an excursion flight that was to leave May the 6th and return May

the 21st. That he subsequently returned to her place of business and picked up his passport and his ticket on May 2, 1968. Mrs. Sun Fung Loo, who is a Chinese lady operating a rooming house or a home in which she rented rooms, would testify that the defendant came to her place at 962 Dundas in Toronto, Canada, and rented a room from her on April the 19th under the name of Ramon George Sneyd. We would call the Honorable H. F. C. Humphreys, who is a Deputy Registrar of the province of Ontario, Canada. He will testify and produce from official records, a letter signed Paul Bridgman, dated 4/10/68, requesting a copy of birth certificate. This certificate was subsequently mailed to 102 Ossington West and returned unclaimed. He would introduce a letter signed George Ramon Sneyd, dated April 16, 1968, requesting a copy of a birth certificate to be mailed to 962 Dundas Street. He would identify the birth certificate card in the name Ramon George Sneyd as being the one sent by his office in response to this request, this being one in the same birth certificate card recovered from the defendant at the time of his arrest. The State would show through introducing these gentlemen, Eric S. Galt to be a prominent businessman in Toronto, Canada. Paul Bridgman is a consultant with the Toronto Board of Education. Ramon George Sneyd is a member of the Toronto Metropolitan Police and all of these men live in rather close proximity to each other in the city of Toronto. Until this investigation, they never knew each other, nor did any of them know the defendant. The State's proof would then continue and show that the defendant as Ramon George Sneyd, did fly to London arriving on May 7, 1968. Miss Monica Baker, who was a receptionist for the Boac in London, would testify with reference to a exchanging the return ticket back to Toronto for the defendant in exchange for a ticket to Lisbon, Portugal and giving a small refund. As I recall something about $14.00. The inspector Hathel of the Portugese International Police in Lisbon, Portugal, would be called by the State and would introduce through him official records reflecting the entry into Lisbon, Portugal

by the defendant on May 8, 1968, and his exit on May 17, 1968 and further with reference pursuant to law over there where they have to make a record of any foreigners staying even overnight in a hotel or motel, with reference to his staying at the Hotel Portugal during this period of time. Mrs. Manuela Texieira Lopes, employed by the Canadian Embassy in Lisbon, Portugal, would testify as to how the defendant came to the Embassy on May 15, 1968, for the purpose having a name corrected on the Canadian passport. The name reflected Sneya, S-N-E-Y-A, rather than S-N-E-Y-D. The passport was cancelled. A new passport was issued with the name correctly spelled, S-N-E-Y-D. Mr. Fama, who was a member of the Portugese Police there in Lisbon, checked both passports and allowed the defendant to leave for a flight to London on May the 17th. The State's proof would show, gentlemen of the Jury, that upon the defendant returning to London as Ramon George Sneyd, he lived at the Ekfield House Hotel on May the 17th to May the 28th. He lived at New Earls Court in London, England from May the 28th to June the 5th and at the Tact Hotel from June 5th to June the 8th. In the meantime after many hours of extra duty by the members of the Royal Canadian Mounted Police, including comparing this picture of James Earl Ray with all passports, it was determined that the picture of the passport of Ramon George Sneyd was identical to James Earl Ray, although in this passport picture, the defendant was wearing glasses. Through the cooperative efforts in law enforcement, the officials of New Scotland Yard in London, England and the Portugese International Police, the search was started for Ramon George Sneyd. Upon request for assistance in this case, Chief Inspector Ronald Burrows of New Scotland Yard, set up the investigation. All entry and exist points into the country were notified and a special fugitive team was set up. We would show that while Detective Chief Inspector Kenneth Thompson of New Scotland Yard and Detective Sergeant Peter Elliott were making an extensive investigation and learning the things that I have heretofore enumerated to you. The defendant as Ramon

George Sneyd appeared at the Heathrow London Airport attempting to board a flight to Brussels. That at approximately 11:30 AM on June 8, 1968, Detective Sergeant Phillip F. Birch of New Scotland Yard, who was seated next to the Immigration Officer, checking passports, when the defendant presented the two passports. The one cancelled in the name Sneya, the correct passport in the name Sneyd, which both of these passports will be introduced and shown to you gentlemen. Immediately Sergeant Birch made some inquiries that had previously come to him. Asked the defendant to talk with him, step out of the line and talk with him with reference to the passports. Sergeant Birch will testify that after the defendant accompanied him from this area around to the office that was used there by the police, he placed a call to the headquarters and told them that he had Ramon George Sneyd. He was instructed at that time to make a safety search, which he did make. He found one .38 caliber snub-nose Liberty revolver from the person of the defendant. Also on his person were tickets from London to Brussels and the ticket stubs and so forth on the London to Toronto flight along with various items of correspondence, which would be introduced as being relevant, but not specifically for the purposes of this inquiry. Chief inspector Arthur Brine, of New Scotland Yard would be called as a fingerprint expert with over twenty-one years of experience. He will testify that he accompanied Superintendent Butler of New Scotland Yard to Heathrow Airport in response to this call. He obtained prints from the defendant. He compared them with prints that had been sent to them in the course of this investigation from the United States and would testify that this was one in the same person, Ramon George Sneyd and James Earl Ray, was one in the same person. Chief Superintendent Thomas Bulter, who is now retired after some thirty-four years of service with Scotland Yard would be called to testify as to his going to the airport in response to this call, his questions to the defendant in reference to the passport and cautioning him with reference to his rights. He then con-

tacted the American authorities and subsequently, the defendant was subsequently turned over to the American authorities. From the luggage of the defendant, there were numerous items which moving along I will just mention to you here rather than taking the time to pull them out of this area here. A Polaroid camera was determined to fit the styrofoam box that had been recovered from the Mustang in Atlanta, Georgia. A suit of clothes which Mr. J. B. Cloutier of the Tip Top Tailors in Montreal, Canada would testify he sold Eric Galt of 2589 Notre Dame St., back on July the 19th, 1967. There was another suit of clothes which Mr. Edward John Feigin who is the owner of the English and Cottonwood Limited, that's a concern in Montreal, Canada, to testify that on July 21, 1967 Eric S. Galt was measured for a suit of clothes, at that time living at 2589 Notre Dame St. in Montreal, Canada. That between the ordering and the completion of the suit, their records reflect a request that this suit be forwarded to the defendant, Eric S. Galt, at 2608 South Highland in Birmingham, Alabama. This was done. This is the same suit that was recovered from the defendant at the time of his arrest in London, England. The State would also in the Montreal area during the period of July and August of 1967 show that the defendant as Eric S. Galt did rent an apartment at 2589 Notre Dame in Montreal and that he occupied this in the general period of July the 18th through August 21st of 1967. Also in going even back beyond that, the State would introduce evidence and proof to show that during the period of May 3rd to June 24th the defendant as John L. Raines was employed by a Mr. and Mrs. Klingeman at the Indian Trail Restaurant which is located in Winnetka, Illinois. Various experts from the FBI Laboratory would be called to testify and their testimony would be in substance as follows: George Bonebreke who has been working with fingerprints since 1941 would testify that at 5:15 A.M., April 5, 1968, he received the following items and it has been heretofore testified to that is, the rifle, the items from the bag, that were delivered to him by the representative from the Mem-

phis FBI Office. With reference to this material from the front, recovered from the front of the Canipe Amusement place here, that he found a print of sufficient clarity on the rifle itself. He found another print of sufficient clarity for identification on the scope mounted on the rifle. He found a print on the after shave bottle which is in the little packet that was obtained or purchased from the Rexall Drug Store in Whitehaven, Tennessee, which was part of the items which were heretofore testified to. He found a print on the binoculars. He found a print on one of the Schlitz beer cans. He found a print on the front page of the April 4th issue of the Memphis Commercial-Appeal. That on April 17, he received this map of Mexico which was, the State would have shown, obtained from the rooming, Jimmy Garner's rooming house. That he found prints of sufficient clarity on that map for identification purposes. That he started an extensive investigation through fugitive files consisting of some 53,000 fingerprints and on April 19th, he identified all the afore mentioned fingerprints taken from these items as being identical with the record bearing the name and photograph of James Earl Ray. That on June 24, 1968, he compared the prints from these items that I have mentioned to you with the prints that he obtained from Inspector Brine in London, England. He also compared on July 22nd, the prints obtained from James Earl Ray when he was brought and delivered to the Sheriff of Shelby County here in our jail. And, would testify that all the above mentioned prints were made by one in the same person to the exclusion of all other persons in the world. That on May 6, 1968, he also examined a modern photo bookstore coupon bearing the name Eric S. Galt, 2608 Highland, Birmingham, Alabama and found the thumb print identical with these other prints heretofore mentioned attributed to James Earl Ray. That further on August 27, 1968, he examined several checks from the Indian Trail Restaurant payable to John L. Raines and found the thumb print identical with the left thumb print of James Earl Ray. Mr. Robert A. Frazier, the Chief of Firearms Identification unit of the FBI with 27

years experience would testify to the firing of this rifle, that has been heretofore introduced. He examined the cartridges, the hull from the chamber of this rifle, the slug removed from the body of Dr. Martin Luther King, Jr., and would testify to conclusions as follows: the death slug was identical in all physical characteristics to the five loaded 30 aught 6 Springfield cartridges found in the bag in front of Canipe's. The cartridge case had in fact been fired in this 30 aught 6 rifle. That the death slug removed from the body contained land and grove impressions consistent with those present in the barrel of this rifle. That he also made microscopic comparisons between the pricked dent in the sill of the window at the bathroom at 422½ South Main and concluded that the microscopic evidence in this dent was consistent in all ways with the same microscopic marks that appear on the barrel of this rifle. Can you all see the rifle? That his examination of the .243 caliber Winchester rifle which had been purchased on March 29th and was returned on March 30th was not capable of chambering or firing a slug. There were certain deposits on the empty bolt which had to be chiseled away before this gun was capable of being fired. That's the gun that was returned. Morris S. Clark would be called as another expert from the FBI with reference to fiber examinations. He prepared miscroscopic slides from this green spread. He also made examinations of the pillow that was removed from 5-B, bed clothing that was removed from 5-B, and he found fibers of the same type as was on this green bedspread on the following items which were obtained from Room 5-B, that is, on the bed covering as well as this little pillow which was found on the sofa in Room 5-B. That's the room in the rooming house. That he found fibers of the exact same type on the following items recovered from the white Mustang in Atlanta, Georgia, on the sweatshirt, on the two sheets, on a jacket, pillowcase, walking shorts, rug from the trunk, pillow from the trunk and sweepings from the car. That he prepared slides of hair, human hair removed from this hair brush that was recovered at the scene and that he found hair on the sweatshirt,

sheets, pillowcase, the rug from the trunk and in the sweepings from the Mustang and found these hairs to have the same characteristics in every respect as the hairs found on the hair brush dropped in front of Canipe's and also as the hairs which were recovered after a haircut here in the Shelby County Jail as the defendant James Earl Ray's. He would further identify the styrofoam covering that I have mentioned to you, the styrofoam case that was taken from the Mustang in Atlanta as being identical in type used to package the Polaroid 220 Camera which was the camera that was found in Ray's luggage at the time of his arrest in London, England. The State would also offer the testimony of James H. Mortimer who is an expert and examiner of questioned documents, commonly referred to as a handwriting expert and would show his examination and conclusions as follows: that the same person who prepared and signed the application and note under the signature of Eric S. Galt, identified as the defendant along with Mr. Lau out at the bartending school in Los Angeles, also signed the registration card at the Rebel Motel in Memphis, signed the registration of the Provincial Motel in New Orleans, signed the motel vehicle transfer application from Mr. Paisley to Eric S. Galt, signed the driver's license application under the name Eric S. Galt who obtained an Alabama driver's license and to be the same person who rented a safety deposit box at the Birmingham Trust National Bank in August of 1967 under the name of Eric S. Galt. Also to be the same person who prepared the writing on the modern bookstore coupon which also bore the print of James Earl Ray and also the same person who wrote on the envelope for Jimmy Garner at the rooming house in Atlanta, the name Eric S. Galt. There were many other documents used in tracing the defendant and establishing who he was in bringing this case down to this point. I have just tried to highlight those for you. If the Court please, that covers our stipulations.

The Court: Anything anyone wants to say at this time?

Mr. Foreman: No, your Honor.

The Court: Alright, gentlemen, all of you who can do as you said you could do and accept this compromise and settlement on a guilty plea and the punishment of 99 years in the State Penitentiary, hold up your right hand. I believe that's everyone. Alright, you can have someone sign the verdict. Mr. Blackwell. James Earl Ray, stand. On your plea of guilty to Murder in the First Degree as charged in the indictment, it is the judgment of the Court that you be confined for 99 years in the State Penitentiary. You may be seated. Now, we've been here for some time and I don't propose to keep us here much longer but I think that the Court should make a few remarks at this place in the proceedings. The fact was recognized soon after this tragic murder took place that there was no possible conclusion to the case which would satisfy everybody. It was decided at that time that the only thing the Judge could do was try the case as nearly as possible to other like cases, and to scrupulously follow the law and his own conscience. This I have done. Memphis has been blamed for the death of Dr. King, to me wrongfully and irrationally. Neither the decedent nor his killer lived here, their orbits merely intersected here. The State has made out a case of First Degree Murder by lying in wait. Why accept any plea, say some? Why not try him for the electric chair? Well, I have been a judge since 1959, and I, myself, have sentenced at least seven men, maybe more, to the electric chair, and my fellow judges in this County have sentenced several others to execution, but there have been no executions of any prisoners from this County since I took the Bench. All the trends in this Country are in the direction of doing away with capital punishment altogether. How about conspiracy and punishment of any co-conspirators. It has been established that the prosecution at this time is not in possession of enough evidence to indict anyone as a co-conspirator in this case. Of course, this is not conclusive evidence that there was no conspiracy; it merely means that as of this time there is

not sufficient evidence available to make out a case of probably cause. However, if this defendant was a member of a conspiracy to kill the decedent, no member of such conspiracy can ever live in peace or security or lie down to pleasant dreams, because in this State there is no statute of limitations in capital cases such as this. And while it is not always the case, my thirty-five years in these Criminal Court have convinced me that in the great majority of cases, Hamlet was right when he said: "For murder though it have no tongue, will speak with most miraculous organ." I believe the settlement of the case a just one to both Defendant and the State. I have accepted and approved the settlement. The defendant is represented by able and eminent counsel, and all rights and safeguards surrounding him have been zealously and conscientiously observed and adhered to. I cannot let this occasion pass without paying tribute to Tennessee, Southern America, Western Free World Justice and Security which was truly a team effort involving scores, and even hundreds of persons. The FBI, Department of Justice of the United States, other federal agencies of Canada, Mexico, Portugal and England, the Attorney General's Office of this County, the City Police, the Highway Patrol and other State agencies. The Sheriff especially, and his whole staff: Mr. Charles Holmes, the Sheriff's liaison with the news media, and finally my amici curiae committee whose efforts have been of inestimable value to me. I wish to thank them all officially and personally, and if I have overlooked anyone, I want to especially thank them too. The defendant has voluntarily admitted his guilt to First Degree Murder in open Court, and this company. None of us know what the future will bring. I submit that, up to now, we have not done too badly for a "decadent river town." If I may be permitted to add a light touch to a solemn occasion, I would like to paraphrase the great and eloquent Winston Churchill who in defiant reply to the Axis threat to wring England's neck like a chicken, said, "Some chicken—some neck." I would like to reply to our Memphis critic—"Some River—Some Town." Anything else?

Mr. Canale: Your Honor, we have this dangerous weapon indictment and I would like to recommend a nolle prosequi on that without cost. As your Honor knows he was indicted before he was apprehended in London. Carrying a Dangerous Weapon is not an extradictable offense under our treaty with England and the treaty also says that whenever he was not brought back on it, he can not be held or tried on it. As far as Carrying a Dangerous Weapon I recommend a nolle prosequi without cost.

The Court: I have already ruled we couldn't try him on that.

Mr. Canale: Just one more thing for the record, your Honor. It was stipulated and agreed between the defense and myself that these mock-ups we have in the Courtroom, the two mock-ups of the scene, replicas of the scene down there, they have been referred to quite a but but I just thought I better put them into the record, stipulated and agreed that they were accurate mock-ups to the case.

The Court: Alright, now, I believe, I have been told that the jury, that lunch has been prepared for the jury. Alright, gentlemen, you have spent a long morning so you get a lunch out of it anyway. Alright, anything else before we recess? Alright, you can adjourn the Court.

(Court adjourned for lunch.)

The foregoing evidence was all the evidence adduced upon the hearing of this cause.

APPENDIX D

In the United States District Court
For the Western District of Tennessee
Western Division

In the Matter of: James Earl Ray,
Petitioner,

vs.

Percy Foreman, William Bradford Huie, and Arthur J. Hanes,
Defendants.

No. 60-199-Civil.

Appearances:

For the Petitioner:

J. B. Stoner, Esquire, Post Office Box 6263, Savannah, Georgia 31405

Richard J. Ryan, Esquire, 523 Falls Building, Memphis, Tennessee

Robert W. Hill, Jr., Esquire, 418 Pioneer Building, Chattanooga, Tennessee

For the Defendants Foreman and Huie:

John J. Hooker, Esquire, Tyree Harris, IV, Nashville Trust Building, Nashville, Tennessee

For the Defendant Hanes:

Arthur Hanes, Jr., Esquire, 617 Frank Nelson Building, Birmingham, Alabama

Present:

Percy Foreman, Esquire, Defendant, 804 South Coast Building, Houston, Texas

William Bradford Huie, Defendant, Hartselle, Alabama.

Mr. Stoner: This will be supplemental to Mr. Ray's Deposition taken before and it is to fill in some missing parts to the other Deposition.

Mr. Hooker: But you want to do this under the same caption we had before——

Mr. Stoner: We don't waive anything.

Mr. Hooker: What we had before, all exceptions were reserved except the form of the question?

Mr. Stoner: Not this time. We want the right of all parties to make objections to be noted here.

The Supplemental Deposition of Mr. James Earl Ray, taken at the Maximum Security Section, State Penitentiary, Nashville, Tennessee, beginning at 11:06 o'clock A.M., November 22, 1969, before Barbara Thomas, Notary Public and Court Reporter, pursuant to the Federal Rules of Civil Procedure.

The Reporter: Would you raise your right hand——

Mr. Stoner: First, before you do that, if it is all right with Mr. Hooker, I want to object to the presence of everyone here except attorneys of record, Court Reporter and Mr. Ray, on the grounds for anyone else to be present is in violation of Mr. Ray's right to due process under the United States Constitution and on the following specific grounds in support thereof:

Mr. Ray will not be able to be present and to assist his attorneys in this case and in cross-examining the witnesses against him in the trial of this case on the issues.

Mr. Hooker: Now, I assume this is directed to Mr. Percy Foreman and Mr. William Bradford Huie. The other gentleman here is Mr. Tyree Harris, who is an associate in my office. I take it, you have no objection to his being here.

Mr. Stoner: I would rather go ahead and keep the objection like it was since the Judge isn't here to rule on it.

Mr. Hooker: Let me state it this way, in response to Mr. Stoner's objection, present at this deposition, with Mr. Tyree Harris, who is associated with my law firm, Mr. Percy Foreman and Mr. William Bradford Huie, who are defendants in this case, Mr. Arthur Hanes, Jr., who is attorney for his father, Arthur Hanes, Sr., who is a party to this case, and myself, who is attorney for William Bradford Huie and Percy Foreman.

It is our opinion that all the parties have the right to be here and we expect to remain here until ordered by the Court that we cannot be present when the deposition is taken. Just make a square issue of it and let the Judge rule on it.

Mr. Stoner: Now, Mrs. Thomas, you can swear the witness, if you please.

MR. JAMES EARL RAY,

called as a witness on his own behalf, having first been duly sworn, deposed as follows:

Direct Examination

By Mr. Stoner

Q. State your name, please, sir.

A. James E. Ray.

Q. And for the record, Mr. Ray, state where we are now.

A. Tennessee State Pen, Nashville.

Q. And in which section?

A. Maximum Security.

Q. In regard to the—your arrest in regard to the Martin Luther King case, where were you arrested?

A. I was arrested in London, England, June 5, 1968.

Q. Were you ever carried into Court in England?

A. Yes, sir.

Q. Who was your attorney there?

A. Mr. Michael Eugene.

Q. What did you do over there in regard to hiring an American attorney?

A. After I was over there several days, I wrote a letter to Mr. Arthur Hanes, Sr., and Mr. F. Lee Bailey. I didn't know the addresses of either of these gentlemen so I wrote them through their Bar Associations.

Q. And——

(Discussion between Mr. Hill and Mr. Stoner.)

Q. Did you hear from Mr. Bailey or Mr. Hanes?

A. Yes, sir. Mr. Bailey wrote back, contacted Mr. Eugene and said he refused the case on the grounds of conflict of interest. I think he said he had been involved some way in Dr. King's organization.

Mr. Hanes wrote back and inquired about fee and while Mr. Eugene was relaying this information he said somebody at the U. S. Embassy had recommended I not hire Hanes. Of course, I ignored this and then, just a few days later, Mr. Hanes wrote me a letter, personally, saying he would accept the case and he said, also, that he would fly to England to confer with me.

Mr. Hanes made a trip to England, I would guess it would be sometime in the latter part of June, middle part of June, but he wasn't permitted to see me. I was being held in semi-incommunicado, something of that nature. I complained about this to the authorities and they said Mr. Fred M. Vinson from the United States Justice Department was recommending this action by the English Government, therefore, my next trip in English Court I complained of this and the next trip Mr. Hanes made to England, they let him in to visit me.

This was on July 5, 1968. That's when he introduced me to the two contracts. One was a Power of Attorney, which I

will refer to now as Exhibit 1, and the other was just an agreement whereby Mr. Hanes received forty percent of all revenues I might come by. I will refer to that from now on as Exhibit 2. And we didn't discuss those contracts in any depth or anything because there was a guard behind each one of us during the conversations, in fact, we didn't discuss much of anything.

Q. Did you discuss fee, at that time, with Mr. Hanes?

A. No, there was very little discussion of anything. Mr. Hanes didn't want to discuss too much on account of our conversations being overheard. Mr. Hanes then, returned on to the United States, I suppose, and then Mr. Hanes made one more trip over there but we didn't discuss contracts on this time—this trip either.

His main purpose in coming this time was to return to the United States with me. I was concerned that maybe I would be accused falsely of making oral statements if I was in the presence of the prosecution too long, but I understand Mr. Ramsey Clark overruled this, so I returned to the United States alone and Mr. Hanes returned alone.

Q. Did you ever have a discussion with Mr. Hanes about raising money for the defense other than—paying him other than by book contracts?

A. Yes, but we discussed that at the same time we discussed the book contracts. After I had returned to Memphis, Shelby County jail, Memphis, Tennessee, Mr. Hanes come up there and saw me, I think about twenty-four hours after I was at the jail, but we didn't discuss contracts at that time. However, the next time he come there he had a contract that was signed by him and Mr. William Bradford Huie. That's the first time Mr. Huie's name was ever mentioned to me and Mr. Hanes urged me to sign this contract, said it would raise a fee for a defense and I suggested that maybe we should try to raise a public fund. I heard some people were interested to finance the defense. However, Mr. Hanes didn't think too much of that idea,

so when Mr. Hanes got ready to leave he left the contracts there and told me to think them over and I told him I would think them over and give him my opinion the next time he came to visit me.

So, three or four days later, Mr. Hanes came to see me again. In the meantime, I had decided to sign these contracts. The reason I decided to sign them, was on an issue like this, you usually had to go along with your attorney to a certain extent——

Mr. Hanes: We object to this testimony on the grounds it is a mental operation and uncommunicated——

Mr. Ryan: What is your objection?

Mr. Hanes: It is an uncommunicated mental operation.

Q. Did Mr. Hanes say anything to you about his expenses in this case?

A. No, that's another thing, the reason I signed the contract. See, Mr. Hanes had made three trips to London and I don't know how much he was out financially, at least two or three thousand dollars. My total resources were $150.00 and, I think, two or three hundred dollars the public had sent in for my defense.

Q. When you mentioned several hundred dollars sent in by the public, had there been any public appeal by you and Mr. Hanes for funds?

A. No, like I say, I suggested that one time but Mr. Hanes decided a contract would be the best route. I was——

Q. Now, tell us about the—you say you were in Memphis, would you describe the jail there in Memphis where you were a prisoner?

A. It was just a maximum security.

Mr. Stoner: I object to a conference between Mr. Hooker and Mr. Foreman on the grounds that Mr. Ray won't be able to confer with his attorneys at the trial.

Mr. Hooker: For your information, if it is of any interest to you, we are talking about plane times. If you will just excuse us a minute we will settle this and go on.

(Brief respite.)

Mr. Hooker: I would like for the record to show at this stage of the taking of the deposition the defendant in this case, Percy Foreman, was required to leave in order to catch his plane. He had to return to Houston, Texas and he was accompanied, for this purpose, by my associate Mr. Tyree Harris, who is driving him to the plane and leaving present, at the taking of this deposition, the parties I named earlier without Mr. Foreman and Mr. Harris.

Mr. Stoner: Of course, we object to the continued presence of Mr. Huie on the same grounds as stated before.

(Direct examination of Mr. Ray continued at 11:20 A.M.)

By Mr. Stoner

Q. What I want you to do, Mr. Ray, is to describe, in detail, your cell there and the circumstances under which you were kept in prison in the Shelby County Jail in Memphis.

A. As I stated, Maximum Security Jail, lights on twenty-four hours a day, steel plates over the windows; two television sets watching me all the time.

Q. What do you mean by two television sets?

A. No fresh air.

Q. What do you mean by television sets?

A. Inlay television sets. I don't know the technical term for them.

Q. You are not talking about television you were watching then?

A. No.

Q. Now, you said you decided to sign the contract with Mr. Hanes. Did you then—had you seen the contract before the day you signed it with Mr. Hanes?

A. Yes, I had read it over. See, Mr. Hanes left the contracts there when Mr. Hanes—now, when he returned to pick up the contracts, like I say, that was three or four days later, and we had some oral agreements.

Q. What were those?

A. From my information, the way I communicated with Mr. Huie or method of communication, was everything I would send Mr. Huie, all information I would send to Mr. Huie would be in the form of written—written material and, if I recall right, also everything—information I sent to Mr. Huie was always signed with my initials on every page.

We also had an agreement that we wouldn't give any information to Mr. Huie on the day of the crime. It was my theory that that would be giving the prosecution an advantage to know, in advance, what the State—what the defense was going to put up since under—under adversary system, nobody tells the other side what you are going to do.

Mr. Hooker: Excuse me, Mr. Stoner. Did I understand his answer to be they had an understanding no information was to be furnished to Mr. Huie until the date of the trial?

The Witness: None on the day of the crime.

Mr. Hooker: I understand. I got it all mixed up. In other words, no information would be furnished to Mr. Huie about what happened on the day of the crime.

The Witness: Everything else.

Mr. Hooker: Everything else but that. Right, I just didn't understand.

Q. Have you read the article in Look Magazine that Mr. Huie wrote?

A. Yes, sir, some guards brought those magazines in jail and I read through them.

Q. Did you ever discuss them with Mr. Hanes, Sr. or Mr. Hanes, Jr.?

A. I told Mr. Hanes, Sr. that I had read them. We discussed them lightly.

Q. Did you tell Mr. Hanes—did you express any opinion to Mr. Hanes as to whether you did or did not like the articles Mr. Huie wrote in Look Magazine?

A. I had some complaints about the articles. The main thing, Mr. Huie, either by accident or design, he had some information I gave him and was in error, which it could—it hurt in several ways. For one, he made several mistakes on my financial transactions while I was a fugitive, maybe he had where I would get more money in one place and less in another. I mentioned this to Mr. Hanes several times.

Also I was associated with a man named Raul out there several times and I wanted to detail, in the writing, what his description was, 5′ 10″, a little bit lighter than me, and dark haired man. Of course, Mr. Huie described this man as blond headed, Latin speaking. This thing, if anybody had ever seen me with him it would kind of discourage potential witnesses. It seemed like there was an error there.

Q. Did you, at any time, ever tell Mr. Hanes, Sr. or Mr. Hanes, Jr. that you were happy about the Huie article in Look Magazine or that you liked these articles?

A. No, I never made this statement about being happy about the article. I wrote the article to raise money for defense. That's the only reason.

Q. And who advised you to give Mr. Huie information that you gave him to raise money for defense?

A. Well, like I testified before, Mr. Hanes suggested I sign the contracts.

Q. In addition to the signed agreements between you and Mr. Hanes, were there any oral agreements?

A. Yeah, I just mentioned those, I think.

Q. Any you haven't mentioned? Do you think of any you haven't mentioned and what they were?

A. Involving Mr. Hanes and Mr. Huie and me?

Q. Yes, sir.

A. Not off-hand.

Q. Did Mr. Hanes, at any time, ever tell you that Mr. Huie would write articles portraying you in a favorable way?

A. No, I don't recall any conversation like that.

Q. Did you and Mr. Hanes have any disagreement—any kind of disagreement that might relate to the contracts you had with him and Mr. Huie?

A. Yes, we did have, at one time, which possibly might relate to it. Me and Mr. Hanes had a slight disagreement once on whether I should take the witness stand in my own defense or whether I shouldn't. Mr. Hanes thought I shouldn't and I thought I should for the reason I didn't see how I could explain my actions on the day of the crime unless I took the witness stand and Mr. Hanes made the statement one time, said, "Why give the press anything free when we can sell it to them?" That made me think Mr. Huie——

Mr. Hanes: I am going to object to what it made him think.

Q. Go ahead and say what you and Mr. Hanes said but not what you thought.

A. That gave me the impression, since Mr. Huie was writing the book, that Mr. Huie was buying the—the block, whatever you want to call it, to keep me off the witness stand.

Q. Whenever Mr. Hanes said: Why give information when it can be sold, what did you say to Mr. Hanes?

A. I didn't make any comment. I just thought about it.

Q. Now, whose idea was it to change—who first proposed a change in the contracts among you and Mr. Huie and Mr. Hanes?

A. I did. This contract that I proposed a change in, is not the one I signed with Huie and Foreman. That contract I proposed a change in was the original contract which we refer to as Exhibit 2, whereby I gave Mr. Hanes forty percent of everything I earned. As you know, Mr. Hanes applied that forty percent to the thirty percent contract I had with Mr. Hanes and Mr. Huie and myself.

I became disturbed at one time by an article in the paper whereby it said that some attorneys from Alabama—that he was restricted from practicing law in Tennessee.

Q. Did you discuss that with Mr. Hanes?

A. No, I didn't. Mr. Hanes discussed the papers, he said it was a one-shot agreement, in other words, Mr. Hanes could defend me one time in Tennessee and then I would be left—I would probably have to get somebody else as my attorney. Now, this is what I interpreted it. So I sent my brother, Jerry Ray, down to talk to Mr. Huie about changing the contract. The reason I wanted it changed, Mr. Hanes told me it might be some time before I got any funds out of the other contract. If this was so and Mr. Hanes, for some reason, couldn't defend me, say like a hung jury and on the next one, I would be out on a limb with no funds. So Mr. Huie agreed to this contract change and so did Mr. Hanes. There was no disagreement there, so we changed it and I think that contract read, the one after we changed the $20,000 plus case fees. That's the way things stood until later on. In other words, I was prepared to go to trial after we had made this agreement.

Q. And then did you discharge Mr. Hanes as your attorney?

A. The way that came about, my brother, Jerry Ray, come to see me about three or four days before the trial was supposed

to start. The trial was supposed to start November 12, 1968 and he said he just come back from talking with Mr. Huie and he said Mr. Huie told him if I took the witness stand that it would destroy Mr. Huie's book.

Mr. Hooker: We object to any conversation between him and his brother, Jerry Ray, on the basis this is hearsay and not in the presence of either of the defendants and inadmissible.

Q. How many days before trial then did you fire or discharge Mr. Hanes?

A. Well, I believe it was on—well, after I—after I—I didn't know Mr. Foreman was coming to the jail to start with.

Q. When did Mr. Foreman come to the jail to see you?

A. I would say approximately three or four days before the trial day was supposed to start, November 12, trial date.

Q. Was Mr. Hanes your attorney at the time Mr. Foreman came to see you?

A. Yes, Mr. Hanes was still the official attorney. I was ready to go to trial when Mr. Hanes come to the jail.

Q. You talking about Mr. Hanes or Mr. Foreman?

A. Mr. Foreman came to jail. I will explain the surroundings. When Mr. Foreman came to the jail, evidently, my brother, someway, had contacted him when they found out they was going to make an effort to keep me off the stand. So Mr. Foreman come to jail and it was a complete surprise to me. He asked if I would let him in to see me and I said to let him in and when Mr. Foreman come to talk to me he had these contracts in his hand.

Q. What contracts are you talking about now?

A. He had them all, all my previous contracts, so after just some general conversation Mr. Foreman mentioned these contracts and I asked him what he thought of the contracts and he

told me that the only thing that Mr. Hanes and Mr. Huie was interested in was money. He said he studied those contracts and if I stuck with them I would be barbecued. That's Mr. Foreman's lingo for the electric chair.

Q. What else did Mr. Foreman say about these contracts?

A. Well, he didn't—we didn't discuss them deeply. We didn't go into any legal reasons, anything legal. The only thing he said, he said Mr. Hanes and Mr. Huie had been friends a long time and that's the way they got involved in these contracts. That's what he said.

Q. What did Mr. Foreman propose at that time?

A. Well, he told me if he had been on the case to start with or if he was on it now he would never—would never became involved with no contracts on books until after the trial was over and he told me if he took the case we could forget about books until the trial was over.

Q. Did you employ Mr. Foreman as your attorney?

A. Yes, I employed Mr.—I got him.

Q. When?

A. At that time, going in that conversation, after he made those charges and I was just—it was just enough substance in what he said to make me believe it and, of course, what give me the impression he had plenty of money to finance the case without compromising the case to book writers and I thought maybe it was a possibility Mr. Hanes didn't quite have that much money. I agreed to discharge Mr. Hanes.

Q. Just sort of get down to telling us what you said and what Mr. Foreman said in that conversation about the contracts, the contracts of employment as well as the book contracts. Did you employ Mr. Foreman?

A. Yeah. As far as Mr. Foreman, he said I would pay him $150,000 straight fee and he would handle all the appeals

until the trial was over, carry it all the way to the United States Supreme Court. I agreed to that and we made two or three other agreements. One, that it would be necessary to hire a Tennessee counselor. I even stipulated this in the paper I wrote up relieving Mr. Hanes.

Q. What was the stipulation about hiring Tennessee Counsel?

A. This paper is on record down there in Shelby County Court about the necessity of hiring Tennessee Counselors.

Q. Was any Tennessee Counsel hired?

A. No, there never was an counsel hired.

Q. Was any—did Mr. Foreman mention any Counsel that he would hire as a Tennessee Counsel?

A. Not right then.

Q. Did he ever?

A. The next time—when Mr. Foreman left, the next time we had a meeting was in—the 12th, the hearing November 12, hearing when I dismissed Mr. Hanes. Mr. Foreman gave the Court the same impression that he gave me in the jail.

Q. Were you in Court at that time?

A. Yes, I think I said before what he said, that he wouldn't prostitute his profession to pan the press. I took that to mean Mr. Huie.

Q. Did the Court instruct Mr. Foreman to get as associate Tennessee lawyer in the case with him?

A. I don't remember. I don't think the Court instructed anyone like that, no.

Q. Did Mr.—Did Mr. Foreman ever give you a check, show you a check while you were in the Shelby County Jail?

A. Yes, he did, but he showed me this check and this was before we went into hiring Tennessee counselor.

Q. What was the amount of the check?

A. Five thousand dollars.

Q. Who had signed the check, who was the check from?

A. I was told from Mr. Bradford Huie. I was just showed the back, where to endorse it.

Q. Did you endorse the check?

A. Yes, sir.

Q. What did Mr. Foreman say was the purpose of that check?

A. Well, a short period before this, two or three weeks when we was discussing hiring Tennessee counselor, that was several names brought up by Mr. Foreman and he seemed to decide on John J. Hooker, Sr., a Nashville Attorney, and he had told me then it would take quite a bit of funds to hire Tennessee Counsel and that's when he suggested that we sign this other contract. Now, you recall Exhibit 5, that was the contract between Mr. Huie, Foreman and me, Ray. But there was no monies coming from this contract until, naturally, later on.

Mr. Hooker: Excuse me just a minute. You all are referring to these contracts. There is no objection and I am not really making an objection, but I notice Miss Barbara has them listed here as Exhibit No. 1 and a collective Exhibit and I take it they were all the contracts you introduced by Mr. Ray the last time.

Mr. Stoner: Yes, sir. Somebody put numbers on them last time but they weren't entered by Mrs. Thomas under those numbers.

Mr. Hooker: I just wanted to note that.

Mr. Hanes: If he can point out which one he is talking about. I believe Mr. Ray is talking about a contract now that is not in this collective exhibit.

The Witness: Yes. See there where I distinguished the contract, I am referring to them from one to six to try to keep the record straight.

Mr. Hooker: In any event, all contracts you are referring to now were filed as an exhibit to your testimony before?

The Witness: No, sir. There was five filed before that there were six contracts altogether, all the way through from one end to the other.

Q. This contract you are discussing now, what did it provide, was that in regard to hiring Tennessee counsel?

A. No, sir, that just gave Mr. Foreman, after he had promised to hire counsel, that gave Mr. Foreman sixty percent and Mr. Huie forty percent of any proceeds from the contract and I agreed to that on the basis that there would be Tennessee counsel hired. Then later on the $5,000 check, Mr. Foreman asked me if he could use that for a detainer for Mr. Hooker, I guess as attorney.

Q. You mean retainer instead of detainer?

A. Retainer.

Q. Was Mr. Hooker retained in actuality?

A. No, sir, that check will come up again when we will get around to getting counsel. Just shortly after Mr. Foreman got that check he filed a motion in Court asking the Court to appoint a Public Defender and this check was introduced in conversation by Mr. O'Dyer, Assistant Attorney General, where he said the defense had $5,000 to hire their own Counsel.

Q. Was that in open Court in Memphis?

A. Yes, and Mr. Foreman said he wasn't going to take a cent of the check. He was just doing everything—public spirited, I suppose.

Q. Well, did you ever get any money, at all, out of this contract?

A. No, sir, I have never asked for any money except once and that was to hire an investigator, but that——

Q. Did you ever get money at that time?

A. No, sir, I never seen any money. Mr. Huie offered to send me money several times. I always referred Mr. Huie to the attorneys. I think they got all the money. That's the way I wanted it, you see. I didn't have any objection to that. I had more problems than money.

Q. You say you hired Mr.—I think you said you hired Mr. Hooker shortly before you were scheduled to go to trial on November 12, or something like that?

A. Hired who?

Q. I mean, Mr. Foreman.

A. Yes.

Q. And how soon after that or when after that did Mr. Foreman first bring up the subject of entering into a contract with himself, Mr. Foreman, and Mr. Huie with regard to the book publishing and writing business? I am not asking the date of the contract, I want to know when he first brought up the subject to you after you first hired Mr. Foreman.

A. Well, the first time I saw Mr. Foreman after our Court appearance dismissing Mr. Hanes, he brought in another writer. He wanted to exchange information with George McMillan. I had heard his name and, of course, I had heard of this fellow writing pornography and I didn't want to get involved in any other writers and I thought we would just stick with Mr. Huie.

Q. You hired Mr. Foreman in November, you said.

A. Yes, sir.

Q. And you stated he told you he could get the contract that you had with Mr. Hanes and Mr. Huie broken?

A. Yes, sir.

Q. Now, when did Mr. Foreman first ask you to sign a contract with him and Mr. Huie about publishing a book?

A. He never asked me if I wanted to sign one with Mr. Huie and Mr. Foreman, he just brought one to the jail one time. It was a sixty percent contract.

Q. That's the contract that has just been introduced?

A. Yeah, and he told me I should sign it.

Q. Did you sign it right then or later?

A. Yes, I signed it then. I think that was about, somewhere in December, I would say middle of—I believe right before Mr. Foreman got sick.

Q. When did Mr. Foreman first recommend to you that you enter a plea of guilty in the criminal case there in Shelby County?

A. When did he first recommend——

Q. Yes, if he did. Well, first, did he ever recommend that you—did Mr. Foreman ever suggest or recommend that you enter a plea of guilty to killing Martin Luther King?

A. Yes. That was a long drawn out process to get me to plead guilty when he started his recommendation.

Q. Explain all that, what he said and what you said or what—not what you thought, but what he said and what you said, explain this long process wherein you say that Mr. Foreman suggested that you enter a plea of guilty, not just what you thought but what he said and you said in response to what he said.

A. Well, that started right after Mr. Huie—Mr. Foreman come back from sick leave. He was sick for quite a while and when Mr. Foreman came back——

Q. Can you remember about when he came back from being sick?

A. I would say sometime in the early part of January.

Q. Did he tell you something about his whiplash neck injury?

A. No. What Mr. Foreman told me, he came to the jail there. He had a briefcase and he had a bunch of pictures. He told me that he had got these pictures for me from Mr. Huie and Mr. Huie got them from the F.B.I. or Mr. Foreman, Percy Foreman, got them from the F.B.I.

Now, these pictures, about 10 X 12 inches long, he described them to me as being taken in Dallas in 1963. He said they were either anti-communist Cubans or connected with anti-communist Cubans someway. Mr. Foreman asked me if the F.B.I. would arrest these people, one of these persons and bring them to the Shelby County Jail, if I would identify him as being Raul, this man I was associated with.

Me and Mr. Foreman discussed this about an hour and I told him, no, I was opposed to that. So, when Mr. Foreman got ready to leave he asked me if that was my last word on it and I said, yes. Actually, my reason for denying—not going along with this is, I know authorities usually like to, especially on perjury, you usually end up in the garbage can where you belong.

Q. The person he asked you to identify in the picture, had you ever seen that person before?

A. None of them was similar; looked something like the person I was associated with.

Q. What size was that picture?

A. 10 X 12, I imagine.

Q. Was it a clear picture?

A. Yes, sir.

A. About how many people were in the picture?

A. Well, this particular picture, he had several, but this particular picture had three people in it.

Q. And what was said by Mr. Foreman and you about a plea of guilty at that time, if anything? Was anything said then about a plea of guilty?

A. No, there was nothing said at that time. When Mr. Foreman left, prior to that, there had never been no suggestion of any guilty plea. However, the next trip Mr. Foreman made to the Jail, he had three typed out sheets of paper, or four, and they said if I went to trial I had a 99 percent chance of getting the electric chair, being found guilty. He wanted me to sign this paper. Well, I signed the paper but the main thing that struck me about the paper, there was a clause in it clearing Mr. Huie and Look Magazine of maybe damaging my rights to a fair trial by this article, so I told Mr. Foreman, I said, Mr. Huie is well able to look after himself in a thing like that. He played D and D on me, deaf and dumb, and, naturally, I went ahead and signed the paper.

Q. Were you given any money for signing that paper?

A. No, I wasn't given any money for signing those papers.

Q. In your conversation with Mr. Foreman, what percentage of the time did he do the talking and what percentage of the time did you do the talking, if any?

A. Well, I would just say hello and goodby, usually; yes or no.

Q. Did Mr. Hooker ever—I mean, Mr. Foreman, did Mr. Foreman ever come in and just sit quietly and listen to what you had to say?

A. No, sir. I wrote Mr. Foreman—I related the crime to him, all the facts leading up, to him. I related it to him just like I did Mr. Huie. I wrote everything out in longhand to Mr. Foreman and he explained to me his technique. He usually investigates the case and lets the other party write out everything.

Q. Why was it necessary to write down everything for Mr. Foreman, did he ask you to write it down?

A. Yes, sir, he asked me to.

Q. Did you write all of it or Mr. Foreman write some of it or what?

A. Mr. Foreman wrote the first six or eight pages and I wrote all the rest.

Q. Was Mr. Huie to get any of that information?

A. No, everything I sent to Mr. Huie, it was the understanding I would write it, you know, in person, to Mr. Huie. I usually would sign my initials on everything that Mr. Huie was to get and if it was to go to Mr. Hanes or Mr. Foreman I would just write it out and give it to them.

Q. To go back to the time when you first had a conversation with Mr. Foreman and decided to employ him as your attorney, what was the agreement for hiring Mr. Foreman, was it—did you have an agreement with him when you hired him to plead you guilty or go to trial and defend you in the trial?

A. No, that was one of the agreements, there would be a Jury trial. I have always insisted on that, even with Mr. Hanes and Mr. Foreman.

Q. Did Mr. Foreman agree to represent you in a trial before a Jury?

A. Yes, sir.

Q. And was that still the agreement between you and Mr. Foreman at the time you signed the book contract with Mr. Foreman and Mr. Huie?

A. Yes, sir, that was—this was still the agreement. I was under the impression that there was going to be a Jury trial up until the time that Mr. Foreman brought these papers in to sign, this 99 percent chance of going to the electric chair. Even after that Mr. Foreman never gave me the impression there was going to be any kind of a guilty plea.

Q. Did Mr. Foreman tell you why there was a 99 percent chance of your being convicted and going to the electric chair?

A. No, there was no—the only thing he said, the reasons he gave me for wanting to plead guilty, he said the press had already convicted me and he said the Chamber of Commerce was putting pressure on the Attorney General where they wanted to get me out of town.

Q. Well, did he say that you would get a fair jury trial in spite of the Chamber of Commerce?

A. No, Mr—see, Mr. Foreman kept giving me information that wasn't true.

Q. What was the information he gave you that wasn't true?

A. Well, he was telling me they could rig the Jury and everything, or I wouldn't get a fair trial. In other words, one time he told me there would be six men from the Chamber of Commerce and six colored people on the Jury and I did a little research and found that would be impossible.

Q. Who did he say the "they" were that would get the Jury rigged?

A. He said the Court Clerk had been on the job for eighteen years, or twenty years. Of course, I didn't—this conversation gave me the impression that Mr. Foreman just didn't want to go to trial. I believed some of it and disbelieved some of the other.

Q. When was the trial set for at that time?

A. I believe the trial was set for March 10th. See, the trial dates were changed for several times within a short period of time there just before the trial and it gave two or three week continuances on each continuance.

Q. What about Mr. Foreman, was it about when he was sick, was there any possibility of your having to go to trial when he was sick?

A. Yes, sir, Judge Battle told the Public Defender that he was going to force me to trial if Mr. Foreman states—the Judge's attitude on that entered into my guilty plea in a way,

which I will attempt to explain. I was considering, once, trying to relieve Mr. Foreman and get somebody who wasn't going to—would have a Jury trial, but the Judge had done give the impression that I was going to trial or else with Mr. Foreman. In other words, I was kind of caught in between the two of them on this guilty plea, in fact, I wrote a letter to the Judge one time—not the Judge, but Mr. Stanton, claiming this.

Q. Who is Mr. Stanton?

A. The Public Defender.

Q. Did he represent you at any time?

A. No, just in that one hearing. I never had no conversation with Mr. Stanton. I never had no meeting with him.

Q. Did you ever tell Mr. Stanton or Mr. Foreman or the Judge why you didn't want Mr. Stanton to represent you?

A. Well, actually, there is a lot of money paid out to hire counsel and I didn't want the Public Defender—the Public Defender specializes in guilty pleas, I think, if you will check the records, about 99 percent of the Public Defender's pleas are guilty pleas. The only reason you hire those people is if you want to plead guilty.

Q. Did Mr. Foreman tell you how he was going to try the case if you insisted on going to trial?

A. Yes, he did, and that's one reason why I finally decided I didn't have no choice but to plead guilty.

Most of Mr. Foreman's conversations after this 99 percent guilty thing I signed, was on guilty pleas. That's the only thing he ever discussed when he come up there was guilty pleas. I used to suggest other things, for instance, one time I found out all the police hadn't made a statement that I was within four miles of Dr. King when he was shot and these statements, I found out, probably showed I wasn't at the scene of the crime when he was shot. So I mentioned this and he said, "I will call up Mr. Holleman——

Q. Who is Mr. Holleman?

A. Commissioner of Police. He said Mr. Holleman won't give us any statement and I said why don't we get a discovery on him. He said that if we do that he might destroy the statements and I knew that wasn't logical.

I kept insisting on this Jury trial. I will say sometime about the middle of February, Mr. Foreman said, "Well, if you insist on a Jury trial I am going to hire Ben Hooks to be co-counsel. Well, Ben Hooks is a Negro Judge, used to be a Negro Judge in Memphis. He recently resigned to take a position with Dr. King's organization. I knew this and Mr. Foreman, I think he knew I knew that, I keep up on the news a little bit and I told Mr. Foreman that that would be a clear-cut case of conflict of interest. That would be more of a conflict of interst case than Mr. Bailey who refused the case on that grounds.

So Mr. Foreman, he said, "Well, that's the way we are going to have to do it. I have the right to hire co-counsel." So that's when I saw that I didn't have no chance, no other option except to plead guilty.

Q. Do you know how you spell the name of the ex-Negro Judge, who is a lawyer in Memphis, that Mr. Foreman wanted to hire as co-counsel?

A. I believe H-o-o-k-s.

Q. Then did you ever—before you agreed to a plea of guilty, did you—did you have a conversation—first, did you have a television set you could watch the news on in your cell?

A. I didn't have any. The guards had one that set outside that I could look through the bars and see them.

Q. Did you ever see Mr. Foreman appear on the news on that set the guards had?

A. Yes, I saw him several times.

Q. Do you remember what he said?

A. At any specific time?

Q. At any of those times about your case?

A. The only one I recall right—would have been the—he went on television right after I pled guilty, I recall that fairly well. See, before I pled guilty—before I pled guilty it was kind of an understanding after that guilty plea was over that Mr. Foreman would kind of go his way and I would go mine. It was also our understanding from this that—it was also our understanding from this that I had not shot Mr. King but Mr. Foreman told me that—it got back to the newspapers, you know, about more or less being convicted on it, in other words, they could prove I was just an accomplice and would be just as guilty as the other party. That was our agreement, at least he gave me the impression he wasn't going to try to make up some stories to add onto that.

So when I went down to plead guilty, I was under that impression. Of course, Mr. Foreman, he used the guilty plea to play Charlie McCarthy and Ramsey Clark and the F.B.I.—I knew Mr. Foreman then had sold out, more or less, for political as well as financial reasons.

Q. Did you ever tell Mr. Foreman he could withdraw from the case?

A. Yes, I told Mr. Foreman that right before the guilty plea. In fact, I wrote out on paper that if he wanted to withdraw from the case he could.

Q. Did you tell him why he might want to withdraw from the case?

A. Did I tell him why?

Q. Yes, sir.

A. I just told him he could withdraw if he didn't want to take it to trial. You see, Mr. Foreman, he had me more or less sewed up in these contracts where I couldn't have hired other counsel if I wanted to.

Q. Did you ever have any other discussion with Mr. Foreman about Mr. Tom Clark or his son, Mr. Ramsey Clark?

A. He had mentioned one time he was a friend of the Clark family.

Q. Tell us the effect of the conversations that you and Mr. Foreman had about the Clarks.

A. Well, Ramsey Clark come up in our conversation one day. Naturally, he was the Chief Investigator on the case——

Q. You are talking about Attorney General Ramsey Clark?

A. Yes. Like I say, Mr. Foreman talks quite a bit. He went into quite a bit of detail about that he went to school with Mr. Tom Clark, I believe Ramsey's father and he is a friend of the family and all that.

Q. And did you mention the Clarks to Mr. Foreman?

A. No, sir, not in a business way.

Q. Did you in a nonbusiness way?

A. No, I didn't comment on personal opinions.

Q. Now, approximately when did you agree with Mr. Foreman to enter a plea of guilty, what was the approximate date or the first time he asked you to—how many times—well, first, how many times did Mr. Foreman ask you to plead guilty?

A. Oh, I couldn't count the number of times. Like I say, I have told you, I agreed—I know I didn't have no other choice but to plead guilty when he was going to hire former Judge Hooks as defense counselor. I would say that was about a date sometime in the latter part of February.

Q. You say it was the latter part of February?

A. The middle or latter part of February.

Q. That is when you finally agreed, is that what you are talking about, when you first agreed to enter a plea of guilty?

A. See, we kind of had the understanding in a year or two I would go ahead and try to get the case reopened.

Q. Tell us about that agreement.

A. That was before we—I just thought it was more or less a financial thing with Mr. Foreman, sell-out or whatever you wanted to refer to it. I figured in one or two years, when I got enough funds from Mr. Huie's book writing, that maybe I would try to get a counselor, you know, interested in having the case just for a Jury trial.

Q. Did Mr. Foreman ever tell you how long you would have to serve in the penitentiary?

A. He told me about a thing that was nonsense, that he knew who the Governor was going to be in two years and he would get me a pardon.

Q. Who was going to get you a pardon?

A. That never had too much effect on me, but my reason for knowing, if I waited two years it would be too late, it was my opinion that if I wanted one or two years to get any money and then try to open the case up because the media would have me convicted. Of course, Mr. Huie here and Mr. Foreman seemed to be no good, seemed to have no good communications with the media. They say lately that they all speak with the same tongue, the television, newspapers and these big book publishers, they will kind of leave me out in the cold.

Q. Did you have any money, at all, to hire other lawyers if you had fired Mr. Foreman?

A. No, sir, I was tied up in contracts one hundred percent.

Q. How much money did you have on deposit at Shelby County Jail?

A. Not over ten dollars.

Q. What about the money that was sent in by the public, who got that, if you know?

A. I believe Mr. Hanes. There wasn't very much. I turned that over to Mr. Hanes. It was just two or three hundred dollars, I understand.

Q. And were you prepared to go to trial on November 12, until you received certain information to change your mind about your attorney?

A. Yes, sir, I was prepared to go to trial on November 12.

Q. Did you discharge Mr. Hanes just to get a delay in the trial?

A. No, sir, the only reason I discharged Mr. Hanes, I thought maybe he was—Mr. Hanes was financially dependent on Mr. Huie, as far as Mr. Hanes personally, I think he would have tried to have won the case if I had gone to trial. I don't think Mr. Hanes would have been involved in any sell-out or anything like that.

Q. Other than Mr. Hooker, who is one of Tennessee leading attorneys, and the Negro attorney in Memphis, did Mr. Foreman ever recommend anybody else as associate Tennessee Counsel?

A. He mentioned names but I don't recall them. I didn't—just passing references.

Q. Did he say how much he would have to pay Tennessee counsel?

A. He said it would be a considerable sum.

Q. How did he propose to get ahold of the money to pay them with?

A. With Mr. Foreman's action, I figured that is why he wanted me to sign over that full contract. I assumed he was going to get some of the money from that contract to pay counsel, pay Tennessee counselors.

Q. You say Mr. Foreman—you said Mr. Foreman said something about he wasn't going to make any money and pander his profession to the press in open Court?

A. Yes, sir.

Q. Is that what you said, in open Court?

A. Yes, sir.

Q. Do you know what he did with that check that was in issue at that time?

A. No, sir.

Q. Did Mr. Stanton, the Public Defender, ever represent you or perform any services for you in Court or out?

A. No, sir, just that one Court appearance.

Q. What about on investigation of your case, how much investigating did Mr. Foreman do?

A. Well, he told the Court he was going to investigate every witness on the list. He didn't investigate anything. My understanding was the Public Defender did the investigation.

Q. Did Mr. Foreman tell you he ever interviewed any witnesses?

A. No, he never mentioned witnesses.

Q. Mr. Foreman ever tell you that he had obtained the services of some students at a law school in Memphis to do any investigating?

A. He mentioned that once but he didn't go into detail, so I don't——

Q. Did he ever say he got any information from them?

A. He didn't tell me if he did.

Q. What about Mr. Hanes, did he investigate your case or have it investigated?

A. I think Mr. Hanes hired a private investigator.

Q. Well, has a man who is a private investigator sued you for services rendered in regard to investigating this case?

A. Yes, a Mr. Renfro Hayes sued me.

Q. Do you remember what Court that is in?

A. I believe it is Judge Nearn's Chancery Court.

Q. In what City?

A. In Memphis, Tennessee.

Q. Was there any understanding that you had with Mr.— did you have any kind of understanding with Mr. Foreman and Mr. Huie as to when any book was supposed to be published or did they tell you when the book would be published?

A. No, sir, I have never had any understanding with Mr. Foreman and Mr. Huie.

Q. Did you ever agree for Mr. Huie to publish any book while your case was still pending?

A. Are you talking about the Look articles, the first articles that were published?

Q. No, sir, not the Look articles but a book, did you have any agreement with Mr. Foreman or Mr. Huie for a book to be published?

A. Well, the contract agreement, I suppose.

Q. Did you have any oral contracts in regard to this written contract as to when the book would be published?

A. No, sir, the only oral agreement I had with Mr. Foreman was that any article would be published after the trial.

Q. Whenever Mr. Foreman would ask you to plead guilty, did you have an opportunity to say much in reply to it?

A. No, I just tried to show him why we shouldn't plead guilty.

Q. Did you ever tell Mr. Foreman you were guilty?

A. No, sir.

Q. In addition to the reasons you have already given, what other reasons did Mr. Foreman give you for entering a plea of guilty?

A. That was several reasons but I can't recall anymore right now. I have given you all I can recall.

Q. Were you in the same cell during all these conversations, the same cell in the Shelby County Jail, when you had all your conversations with Mr. Foreman?

A. Yes, sir.

Q. And did you ever get sick in the jail over there in Memphis?

A. I have headaches all the time due to the circulation.

Q. Circulation of what?

A. There was no natural air. They had blowers blowing air in all the time.

Q. And you said something about guards being in the cell, did they get sick or did they stay well?

A. I think there was quite a bit of sickness amongst the guards there.

Q. What was the condition of your health at the time you were doing business with Mr. Foreman?

A. I couldn't say. It would be up to the Doctor, I think.

Q. Did a Doctor see you while you were in jail?

A. They had a Doctor there, yes.

Q. Do you remember the Doctor's name?

A. DeMeere.

Q. Did he have any relatives over there—how come him to come see you, was he kin to the sheriff or somebody?

A. I believe he was a relative of one of the prosecuting attorneys.

Q. Mr. Ray, I would like for you to look at this contract that has already been stipulated in evidence. I want you to look at it. It is called an amendatory agreement and dated

the 29th of January, 19—it says 1968, but it would have to have been 1969, in actuality, because apparently that would be a typographical error.

Mr. Stoner: Mr. Hooker, on this amendatory agreement, would you agree or stipulate that should be January of 1969 instead of January of 1968 since Martin Luther King was still alive in January, 1968? It is the amendatory agreement.

Mr. Hooker: I am sure that is correct, Mr. Stoner.

Mr. Stoner: You stipulate it is 1969?

Mr. Hanes: Yes.

Mr. Hooker: We do too.

Q. Would you look at this amendatory agreement I am not going to ask you about the terms of it, I just want you to have it in your mind as to which agreement it was so I can ask you a question relating to it. Look at the last page and, for the benefit of the record and the Honorable Court, see whose signature appears on the bottom there.

A. Percy Foreman, Arthur J. Hanes, James Earl Ray, William Brandford Huie.

Q. Now, you just heard the stipulation that this agreement was actually signed on the 29th day of January, 1969, instead of the 29th day of January, 1968. You heard that stipulation by Mr. Hooker and Mr. Arthur Hanes, Jr.?

A. Yes.

Q. Now, where were you when you signed this agreement?

A. Shelby County Jail, Memphis, Tennessee.

Q. In regard to the sequence of events and your doing business with Mr. Foreman, had you agreed to enter a plea of guilty to the killing of Martin Luther King before this contract was signed?

A. No, sir.

Q. Now, you had not agreed to enter a plea of guilty at that time. Had Mr. Foreman asked you, at that time, to enter a plea of guilty?

A. What date is that again?

Q. January 29th. Was it before or after that that Mr. Foreman started telling you to plead guilty?

A. Well, first, we have got to decide if this—if this contract has been predated or is this——

Q. That, I don't know. Were there some predated contracts? If they were, please tell us when they were signed and predated.

A. Well, these are not notarized or anything. Of course, I have never read this agreement and would it be all right if I read this agreement so I will know what I am talking about?

Q. My only interest in it now is the date.

Mr. Hanes: I think it is only fair that the witness be allowed to read this agreement.

The Witness: Yeah, there's so many of them.

Mr. Stoner: All right.

(Document read by witness.)

Q. Is that the contract, Mr. Ray, that has been predated or postdated or is it another contract?

A. Yes, sir. Now, I recall this contract beings I read it.

Mr. Hooker: I thought when we had the discussion about the date of the contract, we agreed the date was wrong.

Mr. Stoner: That's right, but he said——

Mr. Hooker: I thought we were agreeing that it was a mistake, a typographical error.

Mr. Stoner: Yes, we will correct that by agreement.

Mr. Hooker: And a very natural one because people, in January, write these dates as being the previous year. I have done that on checks a lot of times.

Mr. Hill: We are definitely not trying to make any point on that.

Mr. Stoner: Now, Mr. Ray just happened to mention that some contracts had been postdated or predated. We don't know—I would like to find this out myself.

The Witness: Whenever Mr. Foreman came to jail he always made a practice, whenever I would sign any papers, he would bring a notary. This Notary, I believe, was a Lieutenant in the Sheriff's Department. Now, this document is not notarized here. I could not explain this 29th of January date. It is my opinion it may have been a little earlier than that. Of course, there is another contract that we don't have here. I don't know whether it is the date on it or not.

By Mr. Stoner

Q. What contract is that, Mr. Ray?

A. That's the contract between Mr. Huie, Mr. Foreman and I, the 60-40 division.

Q. Do you have a copy of it anywhere?

A. No, sir, I don't have a copy.

Q. Have you ever seen a copy of it since you signed it?

A. Yes, I believe you have it. I imagine Mr. Hooker has it.

Mr. Stoner: It is probably an exhibit.

Mr. Hanes: I believe what he is talking about is this assignment to Foreman.

Mr. Hill: Forty percent of his thirty percent?

Mr. Hanes: No.

Q. Is that the agreement you are talking about? Let Mr. Hanes show you his copy.

Mr. Hanes: If that's the same one.

Mr. Hooker: That is already in the record, isn't it?

Mr. Hanes: Yes, sir.

Mr. Stoner: What is the date on that agreement? I don't think it is on the one Mr. Hanes had but would you stipulate what the date is on that agreement?

Mr. Hanes: I have no knowledge of this agreement whatever. That's between Mr. Ray and Mr. Foreman. It is dated the 3rd day of February.

Mr. Stoner: We have one dated the 3rd day of February. I guess that's it.

The Witness: This contract here—this contract has been signed by a Notary, so it would have a legitimate date on it, I suppose.

Q. What date is on it?

A. February 3rd, 1969.

Q. So, as far as you know that's the correct date on that one?

A. Yes, sir.

Q. But you don't know for certain, or do you?

A. Well, I haven't read this contract either. Is it different from this one?

Q. Yes, sir.

A. Do I remember what?

Q. Do you remember the—signing the two contracts, both of these contracts which are already admitted in evidence and are contracts among you, Mr. Foreman and Mr. Huie I presume, from this one dated February 3rd. You can only see your signature on it and the signature of the Notary Public, but it says

in the contract that it is a follow-up to what it calls the amendatory agreement on the 29th of January 1969, which would be the correct date rather than 1968.

A. You want to know if I ever recall signing this?

Q. I just want to know if you know about the dates on them.

A. Well, I don't want to comment on dates. It has the date on here. Of course, that could have been put in anytime.

Q. Who all brought you questions, written questions, from Mr. Huie?

A. Arthur Hanes, Sr. and Percy Foreman.

Q. Did you send back answers to Mr. Huie?

A. Yes, sir.

Q. In any of the written answers to Mr. Huie did you ever tell him what happened on the 4th day of April, 1968 in Memphis, on the day that Martin Luther King was alleged killed?

A. No, sir.

Q. Let me ask you this, Mr. Ray—is it your desire to have the United States District Court in Memphis, Tennessee where this case is now pending, to declare your contracts, all of your contracts with Mr. Hanes, Mr. Foreman and Mr. Huie null and void?

A. Is it my wish? Yes.

Q. Mr. Ray, do you want the United States District Court, where this case is pending, to issue an injunction against the publishing of a book written by Mr. William Bradford Huie?

A. Yes, sir, I request that.

Q. Have you ever been paid any money by Look Magazine?

A. No, sir, not directly.

Q. That's what I am talking about, have you ever received a check or money directly from Look Magazine?

A. No, sir.

Q. Have you ever received any money since you have been arrested in this case from any—directly from any book publishing company?

A. No, sir.

Q. In regard to money that Mr. Huie has paid out in the course of these contracts so far, do you know whether it was Mr. Huie's own money or somebody else's money?

A. No, sir, I don't.

Q. On this picture or these pictures that Mr. Foreman brought you, who did he say the persons were in those pictures?

A. Mr. Foreman?

Q. Yes, sir.

A. Well, they was described to me as either anti-communist Cubans or associated with them.

Q. Did he give you any other descriptions besides as to who they were?

A. What their names were?

Q. What their names were or anything else. What else did he tell you about the persons in the pictures, if anything?

A. Well, he never give me any names of these——

Q. Other than to have them arrested or to have one of them arrested, did he tell you any reason he wanted you to identify one as Raul?

A. No, sir, just said the F.B.I. wanted them out of circulation.

Q. Did he say why the F.B.I. wanted him out of circulation?

A. No, sir.

Q. Who did they want out of circulation, that picture or individuals in the picture?

A. The individuals in the picture, I would assume.

Q. Mr. Ray, has the F.B.I. ever talked to you?

A. No, sir, they came down here—they have been down here several times but the first time they came down here I didn't know who they were. I thought this was prison officials and I was in the presence of them two to three minutes and I told the Warden I didn't want to speak to anyone except attorneys and I haven't spoke to anyone since then.

Q. I want to clarify what you said about what Mr. Foreman said about Mr. Hooks, the Negro lawyer in Memphis. I am not certain whether I understood you or not. Did he say he was going to hire him as associate counsel?

A. Yes, sir.

Q. Did he say he had a right to hire him as associate counsel?

A. I told him I thought that would be a very bad idea. I told Mr. Foreman I thought that wouldn't be too good of an idea. Like I said, I have been mentioning the conflict of interest and naturally, an ex-judge, I am not——

Q. Did Mr. Foreman say that if you went to trial he was definitely going to have Hooks in there?

A. Yes, sir.

Q. Or Hoaks, or whatever his name is. Did Judge Battle, the trial Judge in Memphis, on your criminal case, say anything about when you had to go to trial or if you could have as many delays or postponements on the part of Mr. Foreman as he wanted? How was the situation about Mr. Foreman getting continuances?

A. The Judge gave the impression he wanted a trial as quick as he could and, of course, he told me then at one of the motions when the Public Defender was—if he replaced

Mr. Foreman I would go to trial with the Public Defender if something happened to prevent counsel, so I assumed he was meaning I was going to have to go to trial pretty quick, prepared or not prepared.

Q. How many hours did Mr. Foreman talk to you in all while he was your attorney, can you remember that?

A. I don't know how many times Mr. Foreman come to jail. He usually stayed there, on an average of an hour or hour and a half. I don't imagine he come to jail ten or twelve times, maybe fifteen hours.

Q. In your best judgment then——

A. Fifteen hours maximum is my best judgment.

Q. Of that fifteen hours about how many hours of it were directed toward persuading you to enter a plea of guilty?

A. I would say ten of them at least.

Q. Have you read some of Mr. Huie's articles and writings about you, Mr. Ray?

A. Yes, sir, I have read most of them.

Q. Do you remember reading what he said about your being in prison in Missouri where the subject of the Honor Farm came up?

A. Honor Farm? No, sir, I don't recall any Honor Farm conversation.

Q. I don't mean conversation between you and Mr. Huie, I am talking about in his writings.

A. No, I don't recall anything about Honor Farms.

Q. You remember the Honor Farm?

A. I was inside walls all the time I was there.

Q. In the article, you have read writings and you have read ones by Mr. Huie and could you point out some of the—were

there any false statements in any of the writings he wrote about you other than what you have mentioned about Raul?

A. They could have been false but—see, I didn't proof read any of that material Mr. Huie wrote, so I think the first article I did after that, I didn't—I wasn't shown any of the material.

Q. Do you want to break your contract with Mr. Huie? I think I asked you that along with the others.

A. Yes, sir, I think it is my wish. My basic agreement with Mr. Huie, like I said, I was going to write everything on paper and there would be no oral statements. That's one reason I wanted to get out of these contracts, it wasn't just no overnight thing. Mr. Huie was making a few statements on television which was not so. I never really told Mr. Huie this. He made some statements one time, I noticed, that I had throwed some packages down in front of the building where Mr. King was supposed to be shot from, supposedly. I don't know.

Q. Did you tell Mr. Huie anything like that?

A. Well, like I said, I made the statement they weren't supposed to discuss the day of the crime. Another thing that concerned me about Mr. Huie, he seemed to try to get me in a political vein on the story.

Q. Did you ever express any political opinion to Mr. Huie?

A. No, sir. When Mr. Huie started sending questions in he asked political questions. I think he asked about Governor Wallace and several conservative organizations which I answered his questions. I didn't think anything about it, that it was just legitimate research. Then later on I could see Mr. Huie—he was making statements which I considered extreme. I told Mr. Hanes once to tell Mr. Huie to try not to involve me in his politics, especially where it wasn't true. I know one time, for instance, Mr. Huie had given an interview to a reporter, Mr. Charles Edmondson. Mr. Edmondson is what you would call a prosecution reporter and he wrote up an article about Mr. Huie giving money for information down in Mississippi and this in-

formation led to some convictions. The article was written around, like reporters can do, that Mr. Huie was doing the same thing to me, he was giving money and I was going to compromise myself. I had nothing to compromise. I wrote a letter to Judge Battle about that article being put out like that and later got more skeptical when Judge Battle himself made a statement about Mr. Huie in the Courtroom, said Mr. Huie broke his word to Judge Battle about publishing those Look articles. See, I had to balance this bad publicity off with the good.

Q. Did you have any good publicity to balance off the bad publicity?

A. No, but I had to consider the bad publicity in light of my financial condition, me going to have to give Mr. Huie something. Of course, if I had had money to hire counsel, I wouldn't have had to hire Huie.

Q. Did Mr. Huie ever give you any good publicity?

A. I would say what wasn't neutral, you might say was unfavorable, confusing. I really wasn't looking for good publicity. I was just looking for the financial angle.

(Discussion off the record.)

Direct Examination

By Mr. Hill

Q. What have the attorneys told you about what is supposed to be this extremist stand as far as blacks, if they did, and if so, which attorneys?

A. You mean past attorneys?

Q. Yes, sir.

A. We never discussed much—you talking about race issue, I suppose?

Q. Yes, sir.

A. We never discussed this very little concept in context with the case.

Q. Well, in context with the case, did you ever explain to them that you were not——

A. You mean anti-nigger; Negro.

Q. Yes.

A. I never made any statement like that. They tried to—what you say, use the word nigger all the time, but this was something Mr. Foreman made up on T.V., I think.

Q. Would you explain this Honor Farm matter that came up about whether or not you were to be sent there and why you refused it?

A. This took place in 1955, I think it was.

Q. Yes, sir, long time ago.

A. And—no, it didn't take place in '55, it took place in '57. I had about six months to go on a three year sentence. I was asked if I wanted to go to the Honor Farm and I was put on a list or something, you know, they put you on a list, maybe three or four months they will call you up and when they called me up, in the meantime, before they called me up I talked to several persons and they said a lot of people were being tried for narcotics out there.

Q. At the Honor Farm?

A. Yes. The Prison, that was segregated but the Honor Farm was integrated.

Q. Where you chose to stay, what were the——

A. Well, there was two reasons. Now, the main reason was on this—I didn't want to get in no dope rap with three or four months before going home and, of course, I don't know if it is a racist statement, but there was more percentage of colored people that take dope than white.

Q. Where you were, within the walls?

A. Yes.

Q. Was it all white or were there Cubans?

A. There was Mexicans and colored and all races except where—now, take for example, from where I was working, I was working the bakery and I think they had nine whites and six colored and four Mexicans. I think they had an Indian. I wasn't guaranteed much if I wanted to go somewhere there was integration, but as far as my personal opinion on that, I wouldn't say I was anti-Negro. At the same time, I wouldn't say I was pro.

Q. You then, I assume, don't label yourself extremist either way? A. No, I don't have too much political opinion. I follow quite a bit, especially judges and things like that, but——

Mr. Hill: That's all.

Redirect Examination

By Mr. Stoner

Q. Have you ever written any letters to Mr. Huie or anybody telling them you were breaking the contract or wanted to break the contract?

A. When I got to the prison here, I wrote letters to Mr. Foreman telling him I wanted to relieve him of doing any legal work for me. I also wrote a couple of letters to Mr. Huie.

Q. What did you tell Mr. Huie?

A. I don't remember the exact words but I gave him the impression I wanted to void the contract under the circumstances.

Mr. Stoner: Mr. Hooker, Mr. Hanes, that's all for now.

Mr. Hooker: Let's have a short recess.

(Thereupon a recess was taken from 1:00 o'clock to 1:20 o'clock P.M.)